

Planning Committee

5 March 2020



Application No.	18/01143/FUL		
Site Address	Open Field and Lake West of Nutty Lane and South of New Road, Shepperton, TW17 0RQ		
Applicant	Liquid Leisure Surrey.		
Proposal	Change of use to provide a water sports leisure facility with associated inflatables and floating jetty, toilets, changing rooms, first aid building, car parking and other associated facilities.		
Case Officer	Matthew Clapham		
Ward	Laleham and Shepperton Green		
Called-in	N/A		
Application Dates	Valid: 14/03/2019	Expiry: 13/06/2019	Target: Extension of time agreed.
Executive Summary	<p>The proposal is a retrospective application which involves the use of the lake to provide an outdoor water sports leisure facility with the retention of associated inflatables on the lake and a floating jetty, various other structures and a parking area. Access to the activity facility is from New Road. The site is located within the Green Belt. The lake and adjoining River Ash are designated as a Site of Nature Conservation Importance (SNCI) and are within the functional flood plain (1 in 20 year event). The land to the north of the lake where the structures and parking areas are located, is within the Zone 3a Flood Risk Area (1 in 100 year event).</p> <p>It is considered that the principle of the use of the lake and adjoining land is acceptable. The use is considered to represent appropriate development within the Green Belt in providing facilities for outdoor leisure and recreation. It is considered that subject to appropriate conditions and a temporary permission for three years to allow for further environmental surveys, the proposal is acceptable in terms of biodiversity and ecology issues relating to the SNCI and adjoining SPAs. No additional flood risks are considered to arise as a result of this particular development. The use is also considered not to cause material harm to the amenity of the nearest residential properties. Amendments have been made to the access and there are not considered to be any significant highway safety concerns.</p>		
Recommended Decision	This planning application is recommended for approval subject to a temporary permission and conditions set out at Paragraph 8 of the Report.		

MAIN REPORT

1. Development Plan

- 1.1 The following policy in the Council's Core Strategy and Policies DPD 2009 is considered relevant to this proposal:

LO1 (Flooding)

EN1 (Design of New Development)

EN11 (Development and Noise)

EN8 (Protecting and Improving Landscape and Biodiversity)

EN9 (River Thames and its Tributaries)

CC3 (Parking Provision)

It is also considered that the following Saved Local Plan policy is relevant to this proposal:

GB1 (Green Belt)

The advice contained within the National Planning Policy Framework (NPPF) 2019 is also relevant.

2. Relevant Planning History

- 2.1 None relevant.

3. Description of Current Proposal

- 3.1 The application relates to a lake and adjoining land including the River Ash, south of New Road and West of Nutty Lane in Shepperton. The proposal is a retrospective application seeking to retain the use of the lake as an outdoor water sports leisure facility comprising inflatables on the lake, a floating jetty and some paddle boarding on the wider lake area. On the land is an area set aside for car parking. This is located north of the leisure facility on open land and south of the access onto New Road. In addition, three containers forming staff welfare facilities and storage, administration areas to sign and receive insurance waiver forms, selling cold drinks and snacks, check-in, and changing rooms. There is also a toilet block, stand-alone showers, security cage for the storage of wetsuits and a first aid container. There is also an area set aside for picnic tables with a covered gazebo providing some shelter over part of this area, which is erected on a temporary basis when the site is operational. Access is to New Road and is shared with one of the access/egress utilised by the car boot sale which operates on Sundays during the summer months. The car boot area, which is on adjoining land under the ownership of the applicant is separate from this facility.
- 3.2 The applicant has indicated that the facility does not operate between the months of November and February, with limited hours during March, April and October between 12 noon and closing at 6 (last session being at 5) and is not open every day of the week. During the spring / summer months – May to

September, it opens more regularly with the facility open 7 days a week during school summer holidays and operates on its longest days between 10am and closes at 8pm (last session being at 7pm). However, the applicant has stated that the facility may close at 'dusk'. All bookings are done electronically on-line with hour sessions available to book – with 50 minutes on the facility and ten minutes to clear the lake to allow the next session to commence. The on-line booking system allows the number of guests to be monitored and is limited to 60 at any one session.

3.3 The site is located within the Green Belt and the lake and River Ash are a Site of Nature Conservation Importance. To the southeast is a Nature Reserve including Nutty Wood, beyond which is the M3. Directly south is open land and some distance away are the residential properties in Watersplash Road. To the west and north is open land partly forming the car boot area. Beyond this is the Queen Mary Reservoir. To the northeast is a commercial yard and beyond that the Longacre's Garden Centre and a Cattery. The River and lake are within the Zone 3b functional flood plain and the remainder of the site with Zone 3a (1 in 100 year risk). The Queen Mary Reservoir is designated as an Special Protection Area (SPA)

3.4 The existing site layout plan is attached as an Appendix.

4. Consultations

4.1 The following table shows those bodies consulted and their response.

Consultee	Comment
County Highway Authority	No objection.
Environmental Health (Pollution)	No objection on contaminated land grounds subject to conditions.
Environmental Health (Noise)	No objection subject to a condition.
Natural England	No objection – refer to Standing Advice
Environment Agency	No objection subject to conditions
Surrey Wildlife Trust	Recommended a condition and environmental enhancements.
Spelthorne Biodiversity Officer	No objection subject to conditions.
Surrey County Archaeology	No objections.

5. Public Consultation

5.1 A statutory site notice was displayed and the application was advertised in the local press. A total of 3 letters of objection have been received, including 1 from the Spelthorne Natural History Society. Reasons for objecting include:-

- Noise.
- Impact on bats.
- Lighting.

- Inadequate details on biodiversity and ecology – planting life and wildlife.
- Traffic generation and pollution
- Disturbance to the River Ash.
- Impact on existing infrastructure / services.
- Loss of trees

6. Planning Issues

- Principle / Green Belt
- Ecology and Biodiversity
- Flooding / Groundwater concerns
- Design and appearance
- Impact on neighbouring properties
- Parking provision and Impact on highway safety

7. Planning Considerations

Principle and Green Belt

- 7.1 Paragraph 133 of the National Planning Policy Framework (2019) sets out that: *'The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green belts are their openness and their permanence.'*
- 7.2 The five purposes of the Green Belt, as defined in the NPPF are:
- to check the unrestricted sprawl of large built-up areas;
 - to prevent neighbouring towns merging into one another;
 - to assist in safeguarding the countryside from encroachment;
 - to preserve the setting and special character of historic towns; and
 - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 7.3 The Council's Saved Local Plan Policy GB1 is mostly reflected in the Green Belt policy set out in the NPPF, but it should be noted that policy GB1 was saved from the 2001 Local Plan and therefore pre-dates the current NPPF. Although there is a degree of consistency with the NPPF, policy GB1 does not allow for any development unless it is one of a number of acceptable uses set out in the policy and also maintains the openness of the Green Belt. This is contrary to national policy which allows exceptions to this when the identified harm to the Green Belt is clearly outweighed by other considerations that constitute very special circumstances. Because of this inconsistency with the NPPF the impact of the development on the Green Belt should be considered primarily against the policies of the NPPF rather than policy GB1.
- 7.4 Paragraph 143 of the NPPF identifies that *'Inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances.'*
- 7.5 Paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate, except in specific exceptions

including the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor recreation as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

- 7.6 Paragraph 146 identifies that the material change of use of land (such as the change of use for outdoor recreation) is not inappropriate in the Green Belt provided it preserves the openness and does not conflict with the purposes of including land within it.
- 7.7 The proposal is for the use of the site as an outdoor recreation facility which is not inappropriate development, providing it preserves the openness and does not conflict with the purposes of including the land within the Green Belt.
- 7.8 Openness is not defined in the NPPF but is commonly taken to be the absence of built development. It is acknowledged that there is an important distinction between openness as being the absence of built development and openness as being the absence of visual impact, however, the visual impact is also an intrinsic part of the assessment of a development against the five purposes of the Green Belt and the two meanings cannot therefore be completely separate.
- 7.9 The access to the site is not tarmac but does consist of compacted ground and gravel. However, the parking area is currently open grassland, providing a 'natural' appearance and character. The access track and parking area is therefore considered not to impact the openness of the Green Belt.
- 7.10 The containers that have been placed on the land have been sited so as to mitigate their visual impact and that on the openness of the Green Belt. The location of containers represents the use of land, but these are acknowledged as being necessary for the specific use of the land proposed.
- 7.11 These containers and enclosures do impact the openness of the Green Belt, however they are acknowledged as being ancillary to the use of the site and necessary for its safe and efficient use.
- 7.12 The proposal is considered not to conflict with the reasons for including the area within the Green Belt, because the minimal nature of the current proposal does not represent unrestricted sprawl of a large urban area or the encroachment into the countryside of an unacceptable or intensive use.
- 7.13 It is considered that the proposals do provide a use that is clearly an outdoor leisure and recreation facility and that the adjoining structures are appropriate and necessary to support this use. The parking area is on existing open land and no hardstanding is proposed. As the car parking is considered to be necessary to support the specific outdoor leisure and recreation use which is the subject of the application, it is considered to be acceptable within the Green Belt. The associated containers, which are located on the periphery of the site, are modest in size and are considered necessary for the operation of the leisure use and there are considered to be no significant adverse impacts upon the openness of the Green Belt. Similarly, the use of the land for leisure activities of this size and nature is not considered to conflict with the purposes

of including land within the Green Belt. The inflatables are temporary by nature and would be removed when the site is not in operation. Therefore the principle of the proposal is considered acceptable and would represent appropriate development within the Green Belt.

Ecology and Biodiversity

- 7.15 Under section 63(1) of The Conservation of Habitats and Species Regulations 2017 (as amended), a competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which;
- (a) is likely to have a significant effect on a European Site (either alone or in combination with other plans or projects), and
 - (b) is not directly connected with or necessary to the management of that site,
- must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.
- 7.16 The proposed application does not directly or indirectly affect any designated part of a European Site, but does directly affect a waterbody that is an SNCI and has been identified as relevant to a network of waterbodies that have been designated as a Special Protection Area (SPA) and as a Ramsar Site under the Ramsar Convention on Wetlands of International Importance.
- 7.17 The proposal would involve the operation of a water based recreation facility on part of an existing waterbody that is situated in an area of open land (NGR 508029 168494). The area of land affected by the proposed development extends to some 2.6 hectares, 0.95 hectare of which comprises part of the Littleton Lane to Shepperton Green Site of Nature Conservation Importance (SNCI) and is in close proximity to the Ash Link Local Nature Reserve.
- 7.18 In assessing this application, the Council has Consulted Natural England, a Statutory Consultee. Natural England has not raised any objection to the application stating that the *'proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes'*.
- 7.19 The Surrey Wildlife Trust (SWT) was also consulted and confirmed that it was not minded to recommend that the Council undertake a full Habitat Regulations Assessment as it was their opinion that the proposed development would not have a likely significant effect on the designated features of the adjoining SPA. The Environment Agency, as outlined in the paragraph 7.44 below has also not raised any objections on Environmental grounds. Therefore, the Council did not consider it necessary to undertake a Habitat Regulations Assessment.
- 7.20 However, as outlined above, the Council has a responsibility to ensure that a proposal in such an area is appropriately assessed. As such, in conjunction with Surrey County Council's environmental officers, the Council has prepared a shadow HRA to record its conclusions as to the likely impact of the proposed development on the SPA as a consequence of the schemes effects

on the non-SPA relevant waterbody, covering the first two stages of a full assessment, namely the screening process and an appropriate assessment. This has been carried out to assess the extent to which the proposed development could give rise to significant impacts on the ecological integrity of the SPA and Ramsar Site by virtue of adverse effects on the wider supporting network of wetland habitats in the south west London area. Such an approach ensures that the Council fulfils its obligations under Regulation 10(8) of the Conservation of Habitats & Species Regulations 2017 (as amended).

- 7.21 The SPA has two qualifying protected species of wild fowl that may use the lake for nesting (non-breeding) purposes. These being the Northern Shoveler and the Gadwall. The applicant's biodiversity report has stated that these species would not be affected by the use and the SWT has concurred with this by accepting that the summer only operation is unlikely to adversely affect the wintering wildfowl. The SWT has suggested a condition limiting the use of the lake to the summer months. The applicant has confirmed that the wintering period, which runs from November to February, means that the park is closed at these times and in any event, the majority of the lake remains unaffected by the use and activities. However, it is considered prudent based on guidance and research on the nesting habits of these protected species to limit use of the facility to between the 1st April and 31st August each year.
- 7.22 With regard to the habitat assessment, the published Site Improvement Plan (SIP) for the SPA (dated 29 October 2014) identifies seven key threats and pressures to the ecological integrity of the SPA. The following paragraphs record an evaluation of the extent to which the proposed development could be expected to influence each of those threats and pressures.
- Pressure/Threat No.1 – Changes in the incidence of public access / disturbance;
 - Pressure/Threat No.2 – Changes in species distribution;
 - Pressure/Threat No.3 – Changes due to the introduction of invasive species (*Crassula helmsii*);
 - Pressure/Threat No.4 – Changes arising from the natural maturation of wetland habitats;
 - Pressure/Threat No.5 – Changes in fish stocking densities and practices;
 - Pressure/Threat No.6 – Changes in waterweed control practices;
 - Pressure/Threat No.7 – Changes arising from the incursion of invasive species (Egyptian geese).
- 7.23 1 – Changes in the incidence of public access / disturbance: *“Most of the sites have some level of formal or informal public access, including water-based activities on some waterbodies (angling, sailing, water-skiing). People can potentially disturb wintering Gadwall and Shoveler, and management for recreational uses may reduce the area of suitable habitat. Research by Briggs (2007) and Briggs et al (2012) indicates low numbers of Gadwall and Shoveller are associated with higher levels of disturbance.”* (Site Improvement Plan, pp.4-6).
- 7.24 Analysis: The proposed development would introduce recreational use to a waterbody that has been identified as 'relevant' to the SPA designation, and historically has not been subject to regular human usage. The operation of the aqua-park has introduced a risk of disturbance for any Gadwall or

Shoveler that may be present on the waterbody during the period of the year in which the facility would be open to the public. The additional ecological information (letter from AA Environmental Limited, dated 18 November 2019) submitted in support of the application indicates that the aqua park equipment would only be present in the lake between mid-March and mid-October. The site specific seasonality guidance for the SPA set out in Natural England's supplementary advice to the conservation objectives indicates that both SPA species are likely to be present between September and March. There is therefore a potential overlap of time periods during which the SPA bird species may be present and the lake may be in use in association with the proposed aqua park.

- 7.25 The original ecological report (prepared by AA Environmental Limited and dated February 2019) and additional ecological information (letter from AA Environmental Limited, dated 18 November 2019) submitted in support of the application both recommend that the scheme would have no impact on over-wintering birds as the aqua-park would only be operational during the summer months, and would only involve the direct use of part of the lake. Neither the original ecological report nor the further information appear to have addressed the potential for over-wintering SPA birds present during March, September and October to be exposed to noise and visual disturbance as a consequence of the proposed use.
- 7.26 Previous surveys have indicated that the waterbody supports relatively low numbers of Gadwall and Shoveller, however these surveys were undertaken some time ago and it is recommended that species specific surveys be undertaken and provided to the Council over a period of three years. As such, a temporary permission for three years is recommended, with a condition to limit operations to the period commencing on the 1st April and ending on 31st August, based on the site specific seasonality guidance for the SPA bird species set out in Natural England's published supplementary advice on the conservation objectives for the SPA. It would also be necessary to impose a condition that requires monitoring of the use of the lake by the SPA and other bird species during the operational period, to establish which species are potentially being affected by disturbance.
- 7.27 2 – Changes in species distribution: *“Cook et al 2013 reports that Gadwall numbers have been in decline on this SPA (-51% over 10 years up to 2009/10), which is not consistent with upwards national population trend. It is not yet confirmed that the changes in Gadwall and Shoveler numbers at the SPA is indicative of changing species distribution or of changing population size. There is research available (Briggs 2007 and Briggs et al 2012) as well as WeBS data to inform an assessment by Natural England but further survey/research may be necessary. Briggs research suggests that wetland and terrestrial habitat outside the SPA (more than 50 waterbodies according to Briggs et al 2012) is making a significant contribution to sustaining the SPA population and there are specified non-designated sites that are unofficially recognised locally as supporting the SPA population. Changes can be managed and foreseen through the planning system, e.g. there have been new mineral restoration schemes since designation which will have most probably affected species distribution (e.g. London Wildfowl Centre at Barnes). Natural and inevitable maturation of gravel pits also influences the*

future capacity of the SPA to support the SPA population.” (Site Improvement Plan, pp.7-8).

- 7.28 Analysis: The proposed development could give rise to disturbance of individual members of the two SPA bird species and would introduce a recreational use to a waterbody that has been previously largely undisturbed by human activity. That change could result in the displacement of those birds and could, in theory, render the affected waterbody unsuitable for continued use by the SPA bird species. The affected waterbody is one of seven (including the Thorpe Park No.1 Gravel Pit SSSI component of the SPA and Ramsar Site) that have been identified as forming the Shepperton complex of waterbodies. An increase in the risk of disturbance at the affected waterbody could contribute to wider changes in the distribution of the SPA bird species that may be underway across the entire SPA complex and the supporting network of non-SPA waterbodies. It cannot be concluded that the development would have no impact on the identified pressure/threat to the SPA, although in the context of wider changes and drivers of change the impact of the scheme may not be significant.
- 7.29 3 – Changes due to the introduction of invasive species (*Crassula helmsii*): *“Large areas of wetland and terrestrial habitat are infested with *Crassula helmsii* (Swamp Stonecrop) and this is likely to be reducing invertebrate numbers – Gadwall and Shoveler feed on invertebrates [Note – for Gadwall invertebrates form a small part of their diet, the majority of which is composed of vegetation]. An eradication project is tackling *Crassula helmsii* but it is not fully effective so far.” (Site Improvement Plan, pp.8-9).*
- 7.30 Analysis: The ecological report submitted in support of the proposed development does not report the presence of Swamp Stonecrop on the application site. It can therefore be concluded that the development would have no impact on the identified pressure/threat to the SPA.
- 7.31 4 – Changes arising from the natural maturation of wetland habitats: *“The inevitable maturation of gravel pits is altering roosting and feeding provision in terms of bankside vegetation, water chemistry and aquatic biodiversity. For example, research by Briggs indicates that bankside tree growth is an obvious problem for both Gadwall and Shoveler at the SPA. There is limited potential to manage natural processes of maturation of gravel pits but some actions are feasible. (SPA birds may prefer non-designated sites in the short to longer term, despite efforts to manage changing habitat at designated gravel pits).” (Site Improvement Plan, p.9).*
- 7.32 Analysis: The proposed scheme would involve the use of 0.95 ha of an existing lake (7 ha total extent) for water-based recreation. The scheme would involve the mooring of a range of inflatable structures off the northern bank of the lake between April and August each year. The management of bankside vegetation would be required as part of the scheme, but the area affected would that also subject to use in association with the aqua park and would therefore be disturbed and unsuitable for the SPA bird species. The remainder of the lake’s bankside would not be affected by the proposed scheme and would therefore be expected to continue to mature naturally. It

can therefore be concluded that the development would have no impact on the identified pressure/threat to the SPA.

- 7.33 5 – Changes in fish stocking densities and practices: *“Research by Briggs (2007) and Briggs et al (2012) indicated that stocking of fish for recreation angling negatively impacts upon SPA bird populations. Fish de-stocking has been carried out in the past. Carp is particularly problematic. R K Leisure [Note: manage Wraysbury No.1 Gravel Pit SSSI, & the northern part of the Wraysbury & Hythe End Gravel Pits SSSI], for example, promotes waterbodies that are internationally recognised for carp fishing.”* (Site Improvement Plan, p.10).
- 7.34 Analysis: The proposed scheme would involve the use of 0.95 ha of an existing lake for water-based recreation. The information submitted in support of the proposed development does not indicate that any form of fish management would be undertaken as part of the implementation of the scheme. It can therefore be concluded that the proposed development would have no impact on the identified pressure/threat to the SPA.
- 7.35 6 – Changes in waterweed control practices: *“Control or removal of waterweed for watersports potentially impacts upon the availability of food for Gadwall and Shoveler. Natural England can advise upon appropriate management of waterweed through the consenting process although there is potential that some weed clearance has been carried out in the past without consent.”* (Site Improvement Plan, p.10).
- 7.36 Analysis: The proposed scheme would involve the use of 0.95 ha of an existing lake for water-based recreation. The scheme would involve the mooring of a range of inflatable structures off the northern bank of the lake between April and August each year. The affected waterbody is a deep lake created from a void left by past mineral extraction with steeply sloping sides, the physical characteristics of the lake make it unlikely to be a key feeding location for either SPA bird species. The information submitted in support of the proposed development does not indicate that any waterweed control or clearance measures are to be deployed as part of the implementation of the scheme.
- 7.37 Taking account of the physical characteristics of the affected waterbody, and the fact that no waterweed control measures are proposed as part of the scheme, it can be concluded that the development would have no impact on the identified pressure/threat to the SPA.
- 7.38 7 – Changes arising from the incursion of invasive species (Egyptian geese): *“There are concerns that Egyptian geese are showing significant increases. Impacts on Gadwall and Shoveler not yet confirmed or quantified but there is potential that geese are competing with Gadwall and Shoveler for habitat and food.”* (Site Improvement Plan, p.11).
- 7.39 Analysis: The proposed development could contribute to increased incursion by Egyptian geese onto waterbodies and areas of land used by Gadwall and Shoveler as a consequence of the potential displacement to parts of the SPA or other relevant waterbodies of any Egyptian geese that may be present on

the lake that would be affected by the scheme. Paragraph 3.23 (p.9) of the Ecological Report (prepared by AA Environmental Ltd, dated February 2019) submitted in support of the planning applications reports that the presence of Egyptian geese (*Alopochen aegyptiaca*) was noted at the application site during the field survey that was carried out on 21 November 2018, but no indication was given of the numbers of individuals of that species that were present.

- 7.40 The Spelthorne Natural History Society has raised concerns regarding the detail in the biodiversity report and whether it has adequately assessed the biodiversity of the site, in particular commenting on a lack of thorough assessment regarding pond/lake plants, invertebrates, eels and bats. However, the Ecological Report was undertaken by a professionally qualified environmental consultancy, fully conversant with legislative and regulatory requirements and industry best practice.
- 7.41 The Council's Biodiversity Officer has recommended that ecological monitoring could provide greater opportunities to support species, and enhance habitats, already existing on the site, and that this would allow an ecological management plan to provide for net biodiversity gains. The Local Planning Authority considers that a condition requiring a draft Ecological Management Plan with mitigation measures that can be adapted, through annual monitoring, to enhance wildlife opportunities at the site would be appropriate. This would allow for some immediate improvements whilst primarily considering long term enhancements to the environment.
- 7.42 As part of the biodiversity report submitted by the applicant, various improvements and enhancements to the natural environment are suggested. These include bird nesting boxes and nesting rafts and areas of additional planting on the site and lake margins to provide shelter and nesting opportunities.
- 7.43 In terms of bats, no evidence has been identified in the walk over field study to identify the presence of bats. The biodiversity reports conclusions and recommendations has highlighted to the applicant that care should be taken when carrying out any works on the site with regard to bats.
- 7.44 Following discussions with Surrey County Council and the Council's biodiversity officer, it is considered that appropriate consideration has been given to the impact of the proposal on biodiversity in both the local and wider areas.

Flooding and Groundwater

- 7.45 A Flood Risk Assessment was submitted as part of the application, with a subsequent amended report being submitted. The Environment Agency has not raised any objections to the proposal subject to a number of conditions. The lake and river area itself, which is located within the Zone 3b functional flood plain, are relatively undeveloped with only floating items being placed on the lake in this area and none on the River Ash itself. The structures themselves are limited in number and are of a temporary nature and removeable. They are also located within the Zone 3a Flood Risk Area and

outside of the functional flood plain. Therefore, the proposal is considered to relate to 'Water Compatible Uses' and no significant flooding concerns are considered to arise.

Design and Appearance

- 7.46 Policy EN1a of the CS & P DPD states that the Council will require a high standard in the design and layout of new development. The use of the lake itself results in various brightly coloured inflatables, which are green and yellow, with some red, white and blue features. As a predominantly family / child based pursuit, this is considered reasonable and acceptable. The containers on land are mainly green with some wooden fencing in front to mitigate their visual appearance. Other units such as the toilets and changing areas have a cladding/vinyl covering providing the appearance of wood and trees. Other storage units and the showers are constructed of timber. There is a white marquee structure for picnic purposes and the first aid structure and the storage area for wetsuits are grey in colour. Due to the separation distances between the structures and the public domain, no significant adverse impacts upon the character and appearance of the area are considered to arise. However, in view of the Green Belt location, a suitable condition requiring painting of some of the existing non-green structures and roller shutters to a more suitable colour is considered appropriate.

Impact on Neighbouring Properties

- 7.47 Policy EN1b of the CS & P DPD states that new development should achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or overbearing effect due to bulk and proximity or outlook.
- 7.48 It is considered that due to the separation distances, the relationship with the nearest adjoining residential properties is acceptable. The adjoining properties are some distance away and the structures are single storey. Therefore, no loss of light, privacy or overbearing is considered to arise. The submitted noise report has assessed the potential noise impacts of the proposal and has assessed the background noise levels, including the M3, which is in the proximity of the site. The comments of the adjoining resident regarding the amplification of noise across water are noted, however based on the noise assessment, the comments of the Council's Environmental Health Noise Officer and the hours that the facility will be operating, it is not considered that an objection on noise grounds is justified. In terms of lighting, the hours of operation mean that there is only limited lighting for health and safety purposes proposed with no obvious floodlighting of the lake itself, which will not be used after 8pm. Therefore, no significant concerns regarding light pollution are considered to arise. As such, the proposal is considered acceptable in terms of any potential impacts upon the amenity of adjoining residential or other commercial properties.

Parking Provision

- 7.49 Policy CC3 (Parking Provision) of the CS & P DPD states that the Council will require appropriate provision to be made for off-street parking in development proposals in accordance with its maximum parking standards. With regard to such water based leisure uses, the Parking Standards state that the parking arrangements should be considered on a case-by-case basis. In this instance, at least one hundred spaces are provided to the north of the lake. On the basis that the numbers of visitors to the facility is limited and that slots are booked on an hourly basis (although guests must attend an hour before the booked slot for administration purposes), this is considered acceptable.

Impact on Highway Safety

- 7.50 Policy CC2 of the CS & P DPD states that the Council will seek to secure more sustainable travel patterns by only permitting traffic generating development where it is or can be made compatible with the transport infrastructure in the area taking into account:
- (i) number and nature of additional traffic movements, including servicing needs,
 - (ii) capacity of the local transport network,
 - (iii) cumulative impact including other proposed development,
 - (iv) access and egress to the public highway,
 - (v) highway safety
- 7.51 The facility is accessed from an existing access/egress to New Road. This access is, at various times of the year, shared with the adjoining Car Boot Sale. The County Highway Authority (CHA) was consulted and initially requested that the existing access be widened to 6m to allow cars to enter and leave the site at the same time in their respective lanes. These works have been carried out and the CHA has raised no objection on highway safety grounds. It is considered the impact on highway safety is acceptable.

Equalities Act 2010

- 7.52 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:
- 7.53 The elimination of discrimination, harassment and victimisation;
The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;
The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights Act 1998

- 7.54 This planning application has been considered against the provisions of the Human Rights Act 1998.

- 7.55 Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.
- 7.56 Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, i.e. peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.
- 7.57 In taking account of the Council policy as set out in the Spelthorne Local Plan and the NPPF and all material planning considerations, Officers have concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by the approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

Finance Considerations

- 7.58 Under S155 of the Housing and Planning Act 2016, Local Planning Authorities are now required to ensure that potential financial benefits of certain development proposals are made public when a Local Planning Authority is considering whether or not to grant planning permission for planning applications which are being determined by the Council's Planning Committee. A financial benefit must be recorded regardless of whether it is material to the Local Planning Authority's decision on a planning application, but planning officers are required to indicate their opinion as to whether the benefit is material to the application or not. The proposal may generate business rates payments which is not a material consideration in the determination of this proposal

Conclusion

- 7.59 The proposal seeks to retain the existing use of part of the lake and an area of land to the north of the lake as an outdoor water sports leisure facility. The proposal is considered to represent an appropriate use within the Green Belt, and is satisfactory in terms of flooding, groundwater, biodiversity and ecology. It would not result in any significant concerns regarding the character and appearance of the area, the amenity of adjoining properties or highway safety. Consequently, the application is recommended for approval, subject to a temporary permission to allow further consideration of any potential Ecology and Biodiversity issues.
- 8. Recommendation**
- 8.1 GRANT subject to the following conditions: -

1. The approval is for a temporary period of 3 years, expiring on the 31st August 2023 when the use shall cease and all containers, structures and enclosures removed from the site.

Reason:-.To allow for extended wildlife surveys to assess and safeguard the Ecology and Biodiversity of the locality and the adjoining SPA sites in particular.

2. The facility shall not be used between 1st September and 31st March and all inflatables shall be removed from the waterbody during this period.

Reason:-.To safeguard the Ecology and Biodiversity of the Site of Nature Conservation Importance and its environs as required by Policy SP6 of the Spelthorne Core Strategy and Policies DPD (2009).

3. The use of the lake shall not commence on April 1st each year of this three year temporary permission unless and until an annual ecological monitoring report has been submitted and approved in writing by the Local Planning Authority.

Reason:-.In the interest of preventing harm to wildlife and protecting the identified SPA species in accordance with policies SP6 and EN8 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

4. The lake shall only be used for the purpose hereby approved between 10:00am and 8:00pm between 1st April and 31st August annually.

Reason:-.In the interest of preventing harm to wildlife and protecting the identified SPA species in accordance with policies SP6 and EN8 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

5. Within three months of the date of this permission, an Ecological / Environmental Management plan shall be submitted to and approved in writing by the Local Planning Authority. This should include details of mitigation measures relating to Biodiversity and Ecological enhancements as set out in the Ecological Report by AAe Environmental Consultants dated February 2019 and the updated letter dated 8.11.2019 from AAe, including any further requirements following any additional on site and including the provision of bird and bat boxes; bird nesting rafts and appropriate river and lakeside planting. The recommendations of this Management Plan shall be implemented in accordance with a timescale agreed by the Local Planning Authority and thereafter maintained. Details of a scheme of both soft and hard landscaping works shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any part of the development hereby approved.

Reason:-.To ensure there is no material impact on the biodiversity value of the site and to safeguard the ecology and biodiversity of the

Site of Nature Conservation Importance and its environs as required by Policy SP6 of the Spelthorne Core Strategy and Policies DPD (2009). enhance and provide a Net Biodiversity gain to the proposed development.

6. Within 3 months of the permission hereby approved a scheme of ecological monitoring, detailing the method, species, habitats and frequency of monitoring, shall be submitted to, and approved in writing by the Local Planning Authority. The scheme shall include:
- Wintering bird survey - for a period of 3 years to determine the significance of the lake in regards to neighbouring sites of SPA designation and the water body highlighted as relevant to the adjacent SPA, qualifying species of south west London waterbodies - Gadwall and Shoveler. Methodology adopted by BTO best practise.
 - Bird survey - a minimum of one full season during optimal survey conditions with a minimum total of six surveys carried out during this time as per best practise
 - Reptile survey - a minimum of one full season during optimal survey conditions with a minimum total of six surveys carried out during this time (March - Sept) as per best practise. The employment of artificial refugia required to determine a robust data set. The ecological report submitted overlooks this species group which permits further input.
 - Floral survey of bankside/ semi and submerged vegetation - activities related to application may have a detrimental effect to aquatic species onsite. Further information is required.

The ecological monitoring shall be submitted to the Local Planning Authority on an annual basis.

Reason:-.In the interest of preventing harm to wildlife and protecting the identified SPA species in accordance with policies SP6 and EN8 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

7. Within three months from the date of this permission a removal and management plan to control any Japanese Knotweed (*Fallopia Japonica*), including long-term objectives and management responsibilities, shall be submitted to, and approved in writing by, the Local Planning Authority. The management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority.

The scheme shall include the following elements:

- details of removal and management regime, including methodology and monitoring strategy
- details of treatment of site boundaries and buffers around water bodies
- outline of designated waste management responsibilities details of strong biosecurity protocols - applied to PPE, tools, machinery and other potential spread pathways.

Reason:-.To ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site. This is in line with paragraph 175 of the National Planning Policy Framework.

Note: This plant is listed within the Wildlife and Countryside Act 1981 (as amended), a contravention may occur if allowed to spread elsewhere from the site. It is considered as controlled waste, and can cause environmental damage such as changing native habitats into single monocultures which reduces the biodiversity value over time.

8. Within 3 months of the date of this permission, the following shall be submitted to the Local planning Authority:-
- (i) A comprehensive desk-top study, carried out to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site, has been submitted to and approved in writing by the Local Planning Authority.
 - (ii) Where any such potential sources and impacts have been identified, a site investigation has been carried out to fully characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until the extent and methodology of the site investigation have been agreed in writing with the Local Planning Authority.
 - (iii) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the Local Planning Authority prior to the commencement of remediation. The method statement shall include an implementation timetable and monitoring proposals, and a remediation verification methodology.

The site shall be remediated in accordance with the approved method statement, with no deviation from the statement without the express written agreement of the Local Planning Authority.

Reason:-.To protect the environment from the effects of potentially harmful substances.

NOTE

The requirements of the above Condition must be carried out in accordance with current best practice. The applicant is therefore advised to contact Spelthorne's Pollution Control team on 01784 446251 for further advice and information before any work commences. An information sheet entitled "Land Affected By Contamination: Guidance to Help Developers Meet Planning Requirements" proving guidance can also be downloaded from Spelthorne's website at www.spelthorne.gov.uk.

Reason: In accordance with policies SP6 and EN15 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

9. A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the local planning authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected. The scheme as approved shall be implemented prior to the occupation of any part of the permitted development.

Reason:-.To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with paragraph 170 of the National Planning Policy Framework.

10. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason:-.To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework.

11. Within three months from the date of this permission, details of the colours to be used for the external surfaces of the containers and enclosure(s) shall be submitted to and approved by the Local Planning Authority. The colours shall then be implemented within three months of the approval in accordance with the approved details and maintained thereafter.

Reason:-.To ensure that the proposed development does not prejudice the appearance of the development and the visual amenities and the character of the locality, in accordance with policies SP6 and EN1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

12. No goods or articles shall be stored on any part of the application site except inside the approved containers or compounds.

Reason:-.To safeguard the interests of wildlife and the amenity of the Green Belt

13. No external lighting shall be installed or operated at the site without the prior written consent of the Local Planning Authority

Reason:-.To ensure that the proposed use and development does not prejudice the appearance of the locality in accordance with policies

14. The development hereby permitted shall be carried out in accordance with the following approved plans: 2561-PL-104 received 4.3.2019 and 2561-PL-101; 2561-PL-102; 2561-PL-103 received 1.3.2019.

Reason:-.For the avoidance of doubt and to ensure the development is completed as approved.

INFORMATIVES TO APPLICANT

- 1 This statement is provided in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Spelthorne Borough Council seek to take a positive and proactive approach to development proposals. We work with applicants in a positive and proactive manner by -

- Offering a pre application advice service
- Where pre-application advice has been sought and that advice has been followed, we will advise applicants/agents of any further issues arising during the course of the application
- Where possible officers will seek minor amendments to overcome issues identified at an early stage in the application process.

However, Spelthorne Borough Council will generally not engage in unnecessary negotiation for fundamentally unacceptable proposals or where significant changes to an application are required.

Pre-application advice was not sought prior to submission and the application was acceptable as submitted.

- 2 The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/ or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. We recommends that developers should refer to:

- the position statement on the Definition of Waste: Development Industry Code of Practice
- The waste management page on GOV.UK Advice to applicant - Waste to be taken off-site Contaminated soil that is (or must be) disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:
 - o Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2016
- The Waste (England and Wales) Regulations 2011 Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of hazardous waste material produced or taken off-site is 500kg or greater in any 12 month period, the developer will need to register with us as a hazardous waste producer. Refer to the hazardous waste pages on GOV.UK for more information.

- 3 The buffer zone to the main river should be managed to develop a natural character, planting options may include native trees and shrubs, but planned as such to not cause shading issues or bank instability over time. Grass areas should be left unmown or mown later in the season to enhance their floristic and habitat value. Fencing and structures should be kept minimal and set back beyond the buffer zone.

Fostering the development of a continuous and structurally diverse buffer zone along the watercourse will ensure this 'wildlife corridor' provides a wider and therefore more robust and sustainable range of linked habitats.

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- A) On or within 8 metres of a main river (16m if tidal)
- B) On or within 8 metres of a flood defence structure or culvert (16m if tidal)
- C) On or within 16 metres of a sea defence involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote barrier) or culvert
- D) In a floodplain more than 8 metres from the riverbank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission. For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03702 422 549. The applicant should not assume that a permit will

automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.