

**Application: 2023/486**

**Location: Reservoir, North Park Lane, Godstone, Surrey, RH9 8ND**

**Proposal: Variation of Condition 3 (Use of Site) and condition 8 (Operating Hours) of planning permission ref: 2016/558 (Change of use of land to diving centre (Class D2) with associated ancillary portacabins and car parking (variation of condition 15 on permission granted under TA/2013/1495 to allow amended swimming route). Amending operating hours.**

**Ward: Bletchingley and Nutfield**

*Constraints – ASAC, Ancient woodland(s) within 500m, Biggin Hill safeguarding, BOA, Gatwick bird strike zone, Gatwick safeguarding, Green Belt, Historic\_landfill\_eahld11719 - godstone reservoirs, Risk of flooding from surface water – 30, 100, 1000, Rights\_of\_way\_fp 122, Source\_protection\_zones 2, 2C, 3, 4*

**RECOMMENDATION:**

**APPROVE, subject to conditions**

1. The application has been called into Planning Committee by Cllr Crane to consider the impact of the proposal may have on the local residents.

**Update**

2. This planning application was first considered at the Planning Committee meeting held on 05 September 2024. The application was deferred to enable Members of the Committee to conduct a site visit.
3. Since reporting this application to planning committee and having heard the debate the applicant has sought to revise the proposal to address the comments made. The amendments include a revised set of proposed hours for part A of the hours condition, an updated management plan and the option to install an acoustic fence.
4. As such the proposal section of the report (paragraph 16 – 19) has been updated with the revised proposal. A re-consultation was undertaken on the revised proposal with any comments received included in Paragraph 32, 33 & 35. The following report has been updated from that previously published to reflect the revised proposal now being considered.

**Summary**

5. Planning permission is sought for the variation of condition 3 (Use of Site) and condition 8 (Operating Hours) of planning permission ref: 2016/558 to allow extended hours of use of the site for open water swimming.
6. The variation of hours proposed seeks to allow for 9am opening matching that is already approved for May – September but permitting 30 minute earlier opening between October and April. No changes are proposed to closing time within standard hours other than for April which are sought to be increased from 18:00 currently approved to 20:00. The proposal also seeks approval for opening between 8:01 pm and 10:00 pm for up to 8 times a year with a maximum of 8 hours operation during those days.
7. The proposed changes to the standard operating hours would result in a modest change to the acoustic character and would fall within the category of no observed effect within the PPG hierarchy. The proposed night swims, by proposing later hours than currently approved would have a slight or modest effect on this

acoustic character and would be considered to fall within the lowest observed adverse effect level within the PPG guidance suggested to be mitigated and minimised rather than avoided. The standard operating hours would result in a modest change on what is currently approved and would retain regulated periods of respite for residents between the permitted operating hours. The applicant has provided a management plan to mitigate the impact as well as the proposal to install a 2m acoustic fence to further mitigate noise.

8. The variation of conditions as is now proposed would have some additional impact on the amenity of the neighbours by virtue of noise. However, taking into account the lesser hours now being considered, along with the retention of the respite periods and securing of a management plan as mitigation, officers consider this is sufficient mitigation as to not result in a significant impact on their residential amenity. The development would therefore accord with Policy CSP18 of the Council's Core Strategy 2008, Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and Paragraph 191 of the NPPF. The variation of condition should therefore be supported. If, however, members consider it necessary to provide additional mitigation the proposed acoustic fence could also be secured to further mitigate the impact on residential amenity of the neighbours to accord with Policy CSP18 of the Council's Core Strategy 2008, Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and paragraph 191 of the NPPF.
9. Recommendation A is therefore to approve planning permission for the amended condition 7 for the revised hours of operation along with the securing of a management plan by condition 8. If members are not minded to agree with the first recommendation due to the need for further mitigation against the impact of noise on the neighbours then officers Recommendation B is to approve planning permission for the amended condition 7 for the revised hours of operation along with the securing of a management plan by condition 8 and acoustic fence by condition 9.
10. The proposal is considered to be acceptable with regards to highway safety and ecology.

### **Site Description**

11. The application site consists of the east reservoir and its associated land formally part of the North Park Quarry and now known as Divers Cove. The site lies within the Green Belt and forms part of a biodiversity opportunity area. Access is gained to the site from the north-west via a quarry road and access track from North Park Lane.
12. The site is predominately covered by open water with mature and established vegetation to each side albeit thinner to the eastern edge. An office, changing rooms and hot tub lie to the north-west corner of the site with saunas and a changing area formed on the beach to the west of the reservoir.
13. The settlement of Godstone lies to the east of the site with some properties within Dumville Drive, Clayton Mead and Greenwell Close bordering the site to the east. Public Right of Way 122 runs to the western boundary of the site with an unclassified access path to the north.

### **Relevant History and Key Issues**

14. The relevant planning history for the site is as follows:

- 2012/905 - Change of use of land to diving centre (class d2) with associated ancillary portacabins and car parking. Approved (full) 17/12/2012
- 2013/1134 - Erection of 2x diving pontoons. (part retrospective) Approved (full) 25/11/2013
- 2013/1495 - Variation of condition 8 of permission ta/2012/905 dated 17 December 2012 to allow for the use of the site for open water swimming sessions. Approved (full) 09/12/2013
- 2015/1122 - Variation to condition 14 of planning application TA/2013/1495 to allow for increased open water swim times (weekday evening's 4-8pm, 6-8pm weekends and 9-11 am weekends). (Amended description referring to condition 14 rather than 4). Approved 14/09/2015
- 2016/558 - Variation of condition 15 of planning application TA/2013/1495 to allow for the alteration of the swim route to the perimeter of the lake to provide a safer and more discreet environment. Approved 01/07/2016
- 2020/720 - Re grading outside changing area, extension of access to water entry point and new benched seating (retrospective) Approved 14/08/2020
- 2022/841 - Variation of condition 8 (Approved operating times) to extend opening times, attached to pp 2015/1122 for the "Change of use of land to diving centre (Class D2) with associated ancillary portacabins and car parking" Withdrawn 19/04/2023

Key issues:

15. As a Section 73 application to vary a planning permission the key issues to consider are those that are relevant to the variations proposed. The principle of the development or other factors associated with the original permission cannot be considered if they are not directly impacted by the variation. Any other relevant condition on the previous permission will be re-imposed.

## Proposal

16. This application seeks approval for the variations of conditions for application 2016/558 to alter the hours permitted for open water swimming at the application site. At present the site has two conditions to restrict the hours of use of the site. This proposal seeks to remove both condition 3 and condition 8 and impose a single condition relating to hours of operation. The proposed condition is as below:

- A) Other than as allowed for by part B of this condition, The use of the site for open water swimming shall not take place other than between the hours of:

1st April to 30th September

Monday - Friday - 9am - 11am - 4pm - 8pm

Saturday & Sunday - 9am - 1pm & 4pm - 8pm.

1st October - 31st March

Monday - Friday 9 - 11am, 4-6pm  
Saturday & Sunday 9-1pm & 4-6pm

B) Notwithstanding part A of this condition, on no more than 8 days of the calendar year (hereafter referred to as night swims), none of which can be consecutive, the site may be used for open water swimming between the hours of 8:01 pm and 10:00 pm. The applicant must notify Local Planning Authority one calendar month in advance of the holding of a 'night swim' session and a log of all 'night swims' shall be kept at all times and made available for inspection by the Local Planning Authority on request. The use shall not operate for more than 8 hours across those days in which a night swim session occurs.

Reason: To ensure that the development and use hereby permitted do not prejudice the residential amenities of nearby residents by reason of noise or disturbance, in accordance with Policy DP7 of the Tandridge Local Plan: Part 2 - Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008.

17. For reference the currently approved hours are as follows:

Condition 3

<b>Dates</b>	<b>Hours proposed</b>
1 May – 31 September	Monday to Friday- 08:30am to 06:30 pm  Saturdays, Sundays and Bank Holidays- 9am to 06:30pm
1 October – 30 April	Monday to Friday- 09:30am to 04:30pm Saturdays, Sundays and Bank Holidays 09:30am to 04:30pm

Condition 8

<b>Dates</b>	<b>Hours proposed</b>
1 May – 30 September	Monday to Friday- 9am to 11am and 4pm to 8pm  Saturdays, Sundays and Bank Holidays- 9am to 11am and 4pm to 8pm
1 October – 30 April	Monday to Friday- 09:30am to 11:30am and 2pm to 6pm Saturdays, Sundays and Bank Holidays 09:30am to 11:30am and 2pm to 6pm

18. It is noted that the suggested condition only relates to open water swimming. Although diving no longer occurs on the site the site does have permission to operate this use and therefore will be considered by the same condition.

19. This application also proposed the erection of a 2m tall acoustic fence along the boundary with the closest neighbours.

## **Development Plan Policy**

20. Tandridge District Core Strategy 2008– Policies CSP1, CSP2, CSP7, CSP12, CSP14, CSP15, CSP17, CSP18, CSP19
21. Tandridge Local Plan Part 2 Local Plan: Part 2 – Detailed Policies 2014 – Policies DP1, DP5, DP7, DP8, DP9, DP19, DP20, DP21, DP22
22. Woldingham Neighbourhood Plan 2016 – Policies L1, L3,

## **Supplementary Planning Documents (SPDs), Supplementary Planning Guidance (SPGs) and non-statutory guidance**

23. Tandridge Parking Standards SPD (2012)
24. Tandridge Trees and Soft Landscaping SPD (2017)
25. Surrey Design Guide (2002)

## **National Advice**

26. National Planning Policy Framework (NPPF) (December 2023)
27. National Planning Practice Guidance (NPPG)
28. National Design Guide (2019)

## **Statutory Consultation Responses**

### Comments received prior to 5<sup>th</sup> September:

29. Godstone Parish Council (summarised) - The Parish Council OBJECTS to this application on the grounds of:
  - Impact on resident's amenity - Current level of noise very audible and unacceptable at times. Increase in the noise disturbance to the local residents adjacent to the site and concern that the increase to hours is excessive and will increase the disruption caused to local residents.
  - Impact on nature reserve.
  - Current swimming operating hours for 42 hours per week for the summer months and this application would see the swimming operating hours increase to 76 hours per week (36 of these hours being across Fri, Sat and Sun at 12 hours per day and then 10 hours per day from Monday to Thursday). Noting the current noise levels that can occur on the site, the potential for a considerable increase in unreasonable noise disturbance is of great concern to neighbouring properties with the proposed operating hours every day, 7 days a week, 6 months of the year.
  - Question the availability of parking for the site, particularly if the adjacent site planning application (2022/1523) is approved.

30. Godstone Parish Council (Summery of further representation received 5<sup>th</sup> June 24) –

- Further 12 months of disturbance relating to development activities with increased noise and light pollution.
- Activity on site grown considerably and conditions breached. Concerns over continuing breaches.
- Noise from site already impacts neighbour's lives and ability to enjoy their gardens and homes. No respite due to private activities during closed times.
- Current swimming operating hours for 42 hours per week for the summer months and this application would see the swimming operating hours increase to 76 hours per week (36 of these hours being across Fri, Sat and Sun at 12 hours per day and then 12 hours per day from Monday to Thursday). Noting the current noise levels that can occur on the site, the potential for a considerable increase in unreasonable noise disturbance is of great concern to neighbouring properties with the proposed operating hours every day, 7 days a week, 6 months of the year.
- Question the availability of parking for the site, particularly if the adjacent site planning application (2022/1523) is approved.
- The Parish Council always want to advocate local business, but do not feel it should be to the detriment of local residents.

31. Bletchingley Parish Council – No comment

Comments received on re-consultation of 30<sup>th</sup> September:

32. Godstone Parish Council - Godstone Parish Council would like to reiterate our strong objections to 2023/486, detailed in our original response provided in June 2024.

Noting that the proposal has now been modified (by way of an acoustic fence, and reduced opening hours), our objections remain on these grounds:

1) There is no current enforcement of the conditions by which the operator should abide even within the existing opening hours; our concern being that any increase in hours must be accompanied by compliance (and enforcement) of conditions

2) The fence would be a blight on the landscape of the area and not likely to be effective

3) All other issues raised in our letter in June 2024 remain unresolved and to the detriment of residents' well-being

33. Bletchingley Parish Council – No comment

#### **TDC advice**

Environmental Health: Officer: No objections to the extra evening sessions.

## Third Party Comments

34. Neighbour Letters and Site Notice. Comments received prior to 5<sup>th</sup> September raising the following matters:

- Ecology - Harm to wildlife, harm to biodiversity
- Amenity - Noise and disturbance, loss of amenity, longer hours extending noise and light pollution, double the operating hours with no respite, loss of privacy
- Highways - Additional traffic, insufficient parking
- Wellbeing - health benefits of open water swimming
- Community asset - improving accessibility
- Impact on extended AONB/National Landscape
- Flouting of swimming rules

Petition provided with 70 signatures.

35. Neighbour Letters Comments received post re-consultation of 30<sup>th</sup> September raise the following matters:

- Amenity- Noise and disturbance (activities, dogs, lighting), respite should be respected.
- Lighting- Need for approval to mitigate impact on residents
- Acoustic Fencing- not effective, impact on wildlife and character. Natural barrier more appropriate
- Management Plan- Concerns over its effectiveness, should outline permitted activities
- Ecology- impact on wildlife
- Economy- offers local employment

## Assessment

### Procedural note

36. The Tandridge District Core Strategy and Detailed Local Plan Policies predate the NPPF as published in December 2023. However, paragraph 225 of the NPPF (Annex 1) sets out that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework document. Instead, due weight should be given to them in accordance to the degree of consistency with the current Framework.

37. This application seeks approval for the variation of conditions for application 2016/558 to remove condition 3 and condition 8 and impose a single condition relating to hours of operation. As above the key issues has been identified as the impact on the amenity of neighbours. Other issues have been raised as part of the public consultation including highways, ecology, social and local economic considerations. This report will address each of these identified issued before concluding on the acceptability of the variation of condition.

### Residential Amenity

38. Policy DP7 of the TDC Local Plan states proposals should not significantly harm the amenity of neighbouring properties by reason of pollution (noise, air or light), traffic, or other general disturbance. Furthermore, proposal should not significantly harm the amenities and privacy of occupiers of neighbouring

properties (including their private amenity space) by reason of overlooking or its overshadowing or overbearing effect. Policy CSP 18 of the TDC Core Strategy states that development must not significantly harm the amenities of the occupiers of neighbouring properties by reason of overlooking, overshadowing, visual intrusion, noise, traffic and any other adverse effect.

39. Paragraph 191 of the NPPF is also relevant and sets out that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.
40. The Planning Practise Guidance provides additional advice with regards to the assessment of noise including guidance on establishing whether noise is likely to be a concern (Paragraph: 005 Reference ID: 30-005-20190722). Within this paragraph it differentiates between an audible perception of noise and the likely effect of noise. It also includes a noise exposure hierarchy table which breaks down the potential impact of noise into 5 different categories from not present and therefore having no observed effect at its lowest to present and very disruptive that would have significant observed effects at the higher end. A copy of the table is included below:



Response	Examples of outcomes	Increasing effect level	Action
No Observed Effect Level			
Not present	No Effect	No Observed Effect	No specific measures required
No Observed Adverse Effect Level			
Present and not intrusive	Noise can be heard, but does not cause any change in behaviour, attitude or other physiological response. Can slightly affect the acoustic character of the area but not such that there is a change in the quality of life.	No Observed Adverse Effect	No specific measures required
Lowest Observed Adverse Effect Level			
Present and intrusive	Noise can be heard and causes small changes in behaviour, attitude or other physiological response, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a small actual or perceived change in the quality of life.	Observed Adverse Effect	Mitigate and reduce to a minimum
Significant Observed Adverse Effect Level			
Present and disruptive	The noise causes a material change in behaviour, attitude or other physiological response, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant Observed Adverse Effect	Avoid
Present and very disruptive	Extensive and regular changes in behaviour, attitude or other physiological response and/or an inability to mitigate effect of noise leading to psychological stress, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory.	Unacceptable Adverse Effect	Prevent

41. This application proposes to alter the hours of operation of the site which it would do via a two-part condition to replace condition 3 and condition 8.
42. Part A of the condition relates to the standard operating hours of the site. This revised proposal seeks to retain the formal AM and PM swim sessions as with the current approval. Opening times are proposed to be 9am across the year resulting in 30 min earlier opening across the winter months. In terms of closing time all months, excluding April, would remain as currently approved. April would, however, move from the winter to the summer hours resulting in closing time increasing from 6pm to 8pm. In terms of the mid-day respite periods this differs depending on the day of the week with a 5-hour break period during the weekdays and a 3-hour break period on weekends. This compares to the currently approved 5-hour period during the summer and 2.5-hour period during the winter. In total these hours would allow 6 hours of opening for all weekdays across the year, 6 hours of opening for weekends during the winter and 8 hours of operating on weekends between 1st April to 30th September. Currently the proposal allows for 6 hours of operation per day.

43. Part B of the condition would permit the holding of up to 8 'night swim' sessions per calendar year. This would permit open water swimming between the hours of 8:01 pm and 10:00 pm on each of those 8 days. It should be noted that Part B is also subject to the same 8 hours restrictions during that day and therefore any night swim sessions will require the reduction of any swim sessions within standard operating hours.
44. This proposal seeks to expand the permitted hours in which open water swimming can occur. The applicant has outlined to officers that the proposal is submitted to allow flexibility to the business to run sessions where there is demand. At present the use does not operate to the full extent of the permitted hours and it is understood that this will be the case going forward; however, sessions can be tailored to increase participation. Notwithstanding the intention of the applicant the proposal would permit operation to the full extent of the hours outlined within the condition and therefore the worst-case scenario of the utilisation of the full hours needs to be taken into account. It should be noted that the application has been amended during the course of determination to revise the proposed hours. The applicant has sought to work with officers to address the concerns raised within the comments.
45. The site at present can offer open water swimming for a period of up to 6 hours per day with the start and finish time varying depending on the time of year. At present there is an enforced break during the day between 2.5 and 5 hours depending on the time of year. The current proposal will match this format but allow 9am opening across the winter months, this being 30 minutes earlier than currently approved. The length of the respite period for each day varies from between 5 hours at its greatest and 3 hours at its shortest. Total hours of operation across the day would remain at 6 hours for most of the year. Use would, however, be permitted for a total of 8 hours on weekends between 1st April to 30th September resulting in a 2 hour increase from that currently approved.
46. As outlined above the Planning Practice Guidance provides additional advice with regards to the assessment of noise and sets out a framework in which impact on noise can be considered. As acknowledged within the comments the noise from the open water swimming is present to those surrounding neighbours; however, due to the activity already occurring at the site such noise already forms part of the acoustic character of the area. The variation of the standard hours would result in a modest change to the impact currently permitted with earlier opening across the winter and an increase of 2 operating hours per day across the summer and would have a slight effect on the acoustic character of the area and which is considered to be likely to have no observed effect under the PPG hierarchy. The proposal, however, also seeks permission for up to 8-night swims a year extending the operating hours for those days up to 10pm and resulting in a greater total operating hours. This would, therefore, have a modest effect on this acoustic character. This change in acoustic character would place it in the lowest observed adverse effect category for which the hierarchy would suggest mitigation and reduction of impact to a minimum. It should be noted that the PPG hierarchy would suggest that impacts within the higher categories of observed effects than found here should be avoided or prevented. The reduction to a minimum within the lowest observed adverse effect category should therefore be seen as minimising impact rather than avoiding the noise altogether.
47. The applicant within the submission has included a Management Plan which sets out the parameters in which the open water swimming would operate. The management plan outlines the sites swimming rules, which the operator expects guests to abide by and which includes an age limit for participants, the

requirement for an adult to accompany younger participants and requesting that noise is kept to a minimum. It should be noted that none of these are controlled by the original planning consent and therefore by securing the management plan by condition it would impose controls to mitigate impact across the entirety of the hours of operation which were not previously secured. It also includes contact details of the site operators so that any concerns can be raised directly with them. Whilst some of the operating procedures may already be implemented at the discretion of the applicant at present it is not secured by the permission and therefore there is no control by the Local Planning Authority to ensure those are adhered to. The securing of the management plan by condition would therefore provide control over these matters, ensuring the good practices imposed by the applicant are adhered to and mitigating against some of the noise/disturbance resulting from the operation to the site highlighted to be of concern to neighbouring amenity. Securing the management plan would therefore provide mitigation against some of the harmful effects such a use could result in.

48. As also discussed above the applicant has also suggested the agreement to the limitation of open water swimming to a maximum of 8 hours a day for the night swim days. This would ensure that total operation is not increased on those days in which night swims occur and would ensure the acoustic character is not substantially altered from its existing position. These measures would provide a form of mitigation.
49. In addition to this the applicant has offered to install an acoustic fence along the site boundary with the neighbours. Although full details have not been provided to date it is suggested to be a 2m tall acoustic fence. If considered necessary to mitigate the noise levels experienced by the neighbours' full details of the fencing can be secured by condition along with an accompanying noise impact assessment to demonstrate the effectiveness of the fence.
50. In concluding on the impacts on residential amenity the current hours proposed is a meaningful reduction to that previously considered by members. This proposal would retain the AM and PM swim sessions and provide regulated mid-day respite as was expressed to be important to the amenity of neighbouring properties as well as altering the opening times to be no earlier than 9am. The proposal would result in later operating when utilising the 8-night swim sessions which would result in exposure of neighbours to additional noise; however, these would be limited in total number across a calendar year and would not increase the total operating hours across the day due to the 8-hour restriction. Taking into account the existing acoustic character of the area which includes the open water swimming during its currently permitted hours the proposal would make a modest change suggested to be mitigated by the PPG guidance. The application will secure a management plan which imposes restrictions not currently imposed by the current permissions and would specifically mitigate against elements of noise and disturbance highlighted within public consultation that are perceived to result in an adverse impact on their residential amenity. The applicant is also proposing the installation of an acoustic fence to further mitigate impact on the neighbours. This mitigation would go beyond mitigating the impact of the proposed extended hours and night swims and would not be as targeted as to the main impacts as the management plan would but would also lessen noise impact across the operation of the current approved hours. As discussed above, full details of this fence and confirmation of its effectiveness in terms of noise reduction can be secured by condition. Taking into account the hours now proposed and the mitigation proposed in the form of the management plan the proposal is not considered to result in a significant impact on the residential amenity of neighbouring properties and therefore, the proposal is not considered to conflict

with the requirements of Policy DP7, Policy CSP18 and Paragraph 191 of the NPPF.

### Highways

51. Policy CSP12 of the Core Strategy advises that new development proposals should have regard to adopted highway design standards and vehicle/other parking standards. Criterion 3 of Policy DP7 of the Local Plan also requires new development to have regard to adopted parking standards and Policy DP5 seeks to ensure that development does not impact highway safety. Paragraph 111 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
52. The acceptability of the leisure use of the site under its current permitted hours was assessed as part of the previous applications and therefore has been considered. This application seeks to further increase the hours of operation with the access and parking arrangements remaining the same. The use of the site for longer hours would result in traffic entering and leaving the site over a longer period and therefore likely overall increased traffic levels; however, not to a significant degree. This variation is therefore not considered to conflict with the above relevant policies.

### Ecology

53. Policy CSP17 sets out that development proposals should protect biodiversity and provide for the maintenance, enhancement, restoration and, if possible, expansion of biodiversity, by aiming to restore or create suitable semi-natural habitats and ecological networks to sustain wildlife in accordance with the aims of the Surrey Biodiversity Action Plan. (34) Policy DP19 is also relevant and outlines that there will be a presumption in favour of development proposals which seek to: 1. Protect, enhance or increase the provision of, and access to the network of multi-functional Green Infrastructure (GI); 2. Promote nature conservation and management; 3. Restore or create Priority Habitats; or 4. Maximise opportunities for geological conservation.
54. The variation considered by this application does not change the nature of the use of the site and there is no additional operational development proposed. Whilst the increase in the hours of the use of the site could impact on the wildlife which would use the reservoir during the quieter periods, this variation cannot be considered to result in an adverse impact on ecology to a degree to resist any permission on those grounds.

### Health and Wellbeing

55. The public consultation for this planning application includes a number of references to the health and wellbeing benefits of the facilities offered at Divers Cove and how the extending of the hours of operation as proposed by this application would further deliver these benefits and allow more people to benefit from them. The National Planning Policy Framework as part of its goal of achieving sustainable development sets out at paragraph 8 the support for a vibrant and healthy community as part of its social objectives. More specifically paragraph 96 sets out that planning policies and decisions should aim to achieve healthy, inclusive and safe places which: c) enable and support healthy lifestyles.

56. The development as permitted would achieve these objectives set out within the NPPF. The facility at present would already provide these benefits and therefore this is not new; however, the extension to the hours as proposed would allow additional delivery of these benefits and therefore would support such an amendment.

#### Local Economy

57. The National Planning Policy Framework as part of its economic objective of sustainable development in paragraph 8 supports building a strong, competitive economy. The variation of the conditions proposed is not understood to be needed to support the economic viability of the business and therefore cannot be said to be necessary to support the local economy; however, the support for economic growth threaded through the NPPF would broadly support the scheme.

#### Other Matters (Acoustic Fence)

58. Within the public consultation for the application a number of concerns have been raised with regards to the installation of the acoustic fence with a suggestion that it will not address noise concern as well as have an adverse impact on wildlife and the character of the area which lies 300m south of a National Landscape area (AONB). As discussed earlier in this report the effectiveness of the acoustic characteristics of the fence can be required to be demonstrated as part of a condition submission, to ensure it will provide the mitigation it is intended to provide. It should also be noted that walls, fences and means of enclosure up to 2m in height could be erected as permitted development under Class A, of Part 2 of Schedule 2 of the General Permitted Development Order 2015 (as amended) and therefore such a feature could be installed without the formal requirements for planning permission which is a material planning consideration on any assessment of its acceptability.
59. The comments raised with regards to the fence are noted. This current application represents a meaningful reduction in proposed hours from the previous application considered by members on the 5<sup>th</sup> September and would result in a total of 2 additional hours operation on weekends across the summer months as well as up to two hours of opening between 8pm and 10pm 8 times a year. In view of the now reduced proposal being considered it remains to be considered whether the mitigation now proposed remains proportionate to the impact of the revision being considered and whether it would meet the test for securing those measures by condition.
60. Paragraph 55 of the NPPF encourages local planning authorities to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 56 is considered to provide the specific test for which a condition must meet to be imposed on a planning permission and outlines that:
- Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.*
61. The proposal now represents a meaningful reduction from what was previously considered by members and result in a moderate increase in operating hours. Any mitigation proposed should be considered necessary and reasonable to mitigate against the additional impact of the proposed variation. As was discussed above the submitted management plan would control some of the potential noisier

aspects of the current activity which could result in harm to residential amenity if continued across the extended hours. The securing of the management plan by condition is therefore necessary and reasonable. The installation of the acoustic fence if properly designed would also assist in the reduction of noise impact on the residential neighbours. This would however mitigate against all noise experienced from the permitted use as well as any extension to the hours as may be permitted. It would also result in other impacts as outlined within the comments. Officer opinion would be that the impact of the additional hours now proposed would be sufficiently mitigated through the securing of the management plan which can assist in controlling the noise or more impactful elements of the use of the site and is the more targeted mitigation measure proposed. The installation of the acoustic fence, either as the sole mitigation or combined with the management plan would be considered disproportionate to the impact of the extension in hours proposed and would not be considered necessary or reasonable in all other aspects in your officer's view.

62. In light of this the securing of the acoustic fence by condition would not meet the test of being necessary or reasonable and therefore officers have not included this within the primary recommendation (Recommendation A) which would secure the management plan as mitigation against the additional impact of the extended hours proposed. If members are not minded to agree with this recommendation and consider the acoustic fence is necessary to mitigate the impact on the neighbours in its totality and reasonable taking into account the other mitigation being proposed then an alternative recommendation (Recommendation B) is proposed to approve the amendment subject to the conditions securing the management plan and acoustic fence provision as proposed by the applicant.

#### Conclusion

63. In conclusion, the proposed variation of conditions as is now requested would have some additional impact on the amenity of the neighbours by virtue of noise; however, with the securing of a management plan the proposal is not considered to be likely to result in a significant impact on their residential amenity and the development would accord with Policy CSP18 of the Council's Core Strategy 2008, Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and paragraph 191 of the NPPF. Alternatively, if considered necessary and reasonable the proposed acoustic fence could also be secured to mitigate the impact on residential amenity of the neighbours to accord with Policy CSP18 of the Council's Core Strategy 2008, and Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 in accordance with paragraph 191 of the NPPF.
64. Recommendation A is therefore to approve planning permission for the amended condition 7 for the revised hours of operation along with the securing of a management plan by condition 8.
65. If members are not minded to agree with the first recommendation due to the need for further mitigation against the impact of noise on the neighbours then officers Recommendation B is to approve planning permission for the amended condition 7 for the revised hours of operation along with the securing of a management plan by condition 8 and acoustic fence by condition 9.
66. These recommendations are made in light of the National Planning Policy Framework (NPPF) and the Government's Planning Practice Guidance (PPG). It is considered that in respect of the assessment of this application significant weight has been given to policies within the Council's Core Strategy 2008 and the

Tandridge Local Plan: Part 2 – Detailed Policies 2014. Due regard as a material consideration has been given to the NPPF and PPG in reaching this recommendation.

67. All other material considerations, including third party comments have been considered but none are considered sufficient to change the recommendation.

**RECOMMENDATION: PERMIT subject to the following conditions**

Recommendation A

1. This decision refers to drawings numbered 12/1036 01 and 12/1036 02 received on 29 June 2012 and drawing numbered 12/1036 03 Revision A received on 5 July 2012 and unnumbered swim route plan scanned on 06/04/2016. The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings.

Reason: To ensure that the scheme proceeds as set out in the planning application and therefore remains in accordance with the Development Plan.

2. No motorised boat transport of any type shall be used on the reservoir at any time except as may be agreed in writing with the District Planning Authority

Reason: To prevent harm to the amenities of neighbouring residential properties in accordance with Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008.

3. Details of any external lighting shall be submitted to and approved by the District Planning Authority in writing prior to any such provision on the site

Reason: To ensure that the development does not detract from the environment of this site in accordance with Policy DP19 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and Policy CSP17 of the Tandridge District Core Strategy 2008.

4. The site shall be used for diving and open water swimming purposes and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To protect the amenities of this area and the amenities of nearby residents in accordance with Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008.

5. The approved parking/turning area shall be used and retained exclusively for its designated purpose.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users in accord with Policies DP5 and DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and Policies CSP12 and CSP18 of the Tandridge District Core Strategy 2008.

6. The open water swimming activity can only be carried out within the area marked out on plan titled 'Variation to TA/2012/905' scanned 21/10/13.

Reason: To ensure that the development and use hereby permitted do not prejudice the residential amenities of nearby residents by reason of noise and disturbance, in accordance with Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008.

7. A) Other than as allowed for by part B of this condition, The use of the site for open water swimming or diving shall not take place other than between the hours of:

1st April to 30th September

Monday - Friday - 9am - 11am - 4pm - 8pm  
Saturday & Sunday - 9am - 1pm & 4pm - 8pm.

1st October - 31st March

Monday - Friday 9 - 11am, 4-6pm  
Saturday & Sunday 9-1pm & 4-6pm

B) Notwithstanding part A of this condition, on no more than 8 days of the calendar year (hereafter referred to as night swims), none of which can be consecutive, the site may be used for open water swimming between the hours of 8:01 pm and 10:00 pm. The applicant must notify Local Planning Authority one calendar month in advance of the holding of a 'night swim' session and a log of all 'night swims' shall be kept at all times and made available for inspection by the Local Planning Authority on request. The use shall not operate for more than 8 hours across those days in which a night swim session occurs.

Reason: To ensure that the development and use hereby permitted do not prejudice the residential amenities of nearby residents by reason of noise or disturbance, in accordance with Policy DP7 of the Tandridge Local Plan: Part 2 - Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008.

8. The use shall of the site for open water swimming shall be undertaken in accordance with the rules and polices set out within the submitted Management Plan received 14<sup>th</sup> October 2024.

Reason: To ensure that the development and use hereby permitted do not prejudice the residential amenities of nearby residents by reason of noise or disturbance, in accordance with Policy DP7 of the Tandridge Local Plan: Part 2 - Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008.

#### Informatives

1. Condition 1 refers to the drawings hereby approved. Non-material amendments can be made under the provisions of Section 96A of the Town and Country Planning Act 1990, and you should contact the case officer to discuss whether a proposed amendment is likely to be non-material. Minor material amendments will require an application to vary condition 2 of this permission.



Such an application would be made under the provisions of Section 73 of the Town and Country Planning Act 1990. Major material amendments will require a new planning application. You should discuss whether your material amendment is minor or major with the case officer. Fees may be payable for non-material and material amendment requests. Details of the current fee can be found on the Council's web site.

### Recommendation B

1. This decision refers to drawings numbered 12/1036 01 and 12/1036 02 received on 29 June 2012 and drawing numbered 12/1036 03 Revision A received on 5 July 2012 and unnumbered swim route plan scanned on 06/04/2016. The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings.

Reason: To ensure that the scheme proceeds as set out in the planning application and therefore remains in accordance with the Development Plan.

2. No motorised boat transport of any type shall be used on the reservoir at any time except as may be agreed in writing with the District Planning Authority

Reason: To prevent harm to the amenities of neighbouring residential properties in accordance with Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008.

3. Details of any external lighting shall be submitted to and approved by the District Planning Authority in writing prior to any such provision on the site

Reason: To ensure that the development does not detract from the environment of this site in accordance with Policy DP19 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and Policy CSP17 of the Tandridge District Core Strategy 2008.

4. The site shall be used for diving and open water swimming purposes and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To protect the amenities of this area and the amenities of nearby residents in accordance with Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008.

5. The approved parking/turning area shall be used and retained exclusively for its designated purpose.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users in accord with Policies DP5 and DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and Policies CSP12 and CSP18 of the Tandridge District Core Strategy 2008.

6. The open water swimming activity can only be carried out within the area marked out on plan titled 'Variation to TA/2012/905' scanned 21/10/13.

Reason: To ensure that the development and use hereby permitted do not prejudice the residential amenities of nearby residents by reason of noise and disturbance, in accordance with Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008.

7. A) Other than as allowed for by part B of this condition, The use of the site for open water swimming or diving shall not take place other than between the hours of:

1st April to 30th September

Monday - Friday - 9am - 11am - 4pm - 8pm  
Saturday & Sunday - 9am - 1pm & 4pm - 8pm.

1st October - 31st March

Monday - Friday 9 - 11am, 4-6pm  
Saturday & Sunday 9-1pm & 4-6pm

B) Notwithstanding part A of this condition, on no more than 8 days of the calendar year (hereafter referred to as night swims), none of which can be consecutive, the site may be used for open water swimming between the hours of 8:01 pm and 10:00 pm. The applicant must notify Local Planning Authority one calendar month in advance of the holding of a 'night swim' session and a log of all 'night swims' shall be kept at all times and made available for inspection by the Local Planning Authority on request. The use shall not operate for more than 8 hours across those days in which a night swim session occurs.

Reason: To ensure that the development and use hereby permitted do not prejudice the residential amenities of nearby residents by reason of noise or disturbance, in accordance with Policy DP7 of the Tandridge Local Plan: Part 2 - Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008.

8. The use shall of the site for open water swimming shall be undertaken in accordance with the rules and polices set out within the submitted Management Plan received 14<sup>th</sup> October 2024.

Reason: To ensure that the development and use hereby permitted do not prejudice the residential amenities of nearby residents by reason of noise or disturbance, in accordance with Policy DP7 of the Tandridge Local Plan: Part 2 - Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008.

9. Prior to the first use of the extended hours hereby approved the applicant must submit details of an acoustic fence to the Local Planning Authority for approval. This submission should be accompanied by an assessment undertaken by an appropriately qualified individual to demonstrate the effectiveness of the fence to mitigate noise beyond the boundary of the site. The fence shall be installed prior to the first use of the extended hours hereby approved and shall thereafter be retained in place in perpetuity.

Reason: To ensure that the development and use hereby permitted do not prejudice the residential amenities of nearby residents by reason of noise or disturbance, in accordance with Policy DP7 of the Tandridge Local Plan: Part 2 - Detailed Policies 2014 and Policy CSP18 of the Tandridge District Core Strategy 2008.

#### Informatives

1. Condition 1 refers to the drawings hereby approved. Non-material amendments can be made under the provisions of Section 96A of the Town and Country Planning Act 1990, and you should contact the case officer to discuss whether a proposed amendment is likely to be non-material. Minor material amendments will require an application to vary condition 2 of this permission. Such an application would be made under the provisions of Section 73 of the Town and Country Planning Act 1990. Major material amendments will require a new planning application. You should discuss whether your material amendment is minor or major with the case officer. Fees may be payable for non-material and material amendment requests. Details of the current fee can be found on the Council's web site.
2. The development has been assessed against Tandridge District Core Strategy 2008 – Policies CSP1, CSP2, CSP12, CSP14, CSP17, CSP18, Tandridge Local Plan: Part 2 – Detailed Policies 2014 – Policies DP1, DP5, DP7, DP10, DP13, DP19, Caterham, Chaldon and Whyteleafe Neighbourhood Plan 2021 – Policies CCW1, CCW3, CCW4, CCW5 and material considerations, including third party representations. It has been concluded that the development, subject to the conditions imposed, would accord with the development plan and there are no other material considerations to justify a refusal of permission.
3. The Local Planning Authority has acted in a positive and proactive way in determining this application, as required by the NPPF (December 2023), and has assessed the proposal against all material considerations including the presumption in favour of sustainable development and that which improves the economic, social and environmental conditions of the area, planning policies and guidance and representations received.