



REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

26th August 2020

TITLE OF REPORT: Decisions made in application to modify conditions relating to construction operational hours.

REPORT OF: Anneliese Hutchinson, Service Director, Development, Transport and Public Protection

Purpose of the Report

To update Planning and Development Committee about decisions made under new provisions introduced by the Business and Planning Act 2020.

Background

On 22nd July 2020, the Business and Planning Act 2020 was given royal assent and enacted in law in England and Wales. Section 16 of the Act (modification of conditions relating to construction working hours) introduces additional sections to the Town and Country Planning Act 1990 (Sections 74B-D). These new sections of the Town and Country Act provide a new temporary mechanism that allows applicants to apply to modify conditions attached to planning permissions that control construction working hours.

The aim of this is to allow those working on construction sites greater flexibility to support safe working in line with social distancing guidance on construction and other outdoor work in the face of the ongoing COVID19 pandemic.

The new legislation gives Local Planning Authorities 14 days in which to decide applications to modify conditions on construction working hours or they automatically gain deemed consent. As these provisions are new, they are not specifically dealt with in the Council's constitution. The result is that they may be dealt with under the general delegation to the Service Director, Development, Transport and Public Protection to determine applications, but subject to the usual triggers requiring determination by the Planning and Development Committee. Given that Planning and Development Committee only meets on a three-weekly basis, this gives rise to the possibility that an application for relaxation of construction working hours might benefit from deemed consent before it can be brought to the Committee for a decision.

The application detailed at Appendix 2 would have benefited from deemed consent before it could be determined by the Committee. The decision on this application has therefore been made under the emergency powers set out in the General

Delegations to Managers at Part 3, Annex 1A of the Council's Constitution which allows:

- Where it is impracticable to obtain authorisation from the body exercising the function and subject to the action being reported (for information) to the next convenient meeting of that body, take necessary urgent action, within legal powers, in respect of matters otherwise reserved to the Council, or any other body of the Council.

The use of these emergency powers may be necessary for any future decisions on any applications made under these regulations until the Constitution has been amended.

This report is for information only and sets out the planning considerations for the decision that was made to grant the temporary modification of the conditions on 11th August 2020 for this case. A copy of the report for this case is attached at Appendix 2.

Recommendation

It is recommended that the Committee note this report for information.

APPENDIX 1

1. FINANCIAL IMPLICATIONS

Nil.

2. RISK MANAGEMENT IMPLICATIONS

Nil

3. HUMAN RESOURCES IMPLICATIONS

Nil

4. EQUALITY AND DIVERSITY IMPLICATIONS

Nil

5. CRIME AND DISORDER IMPLICATIONS

Nil

6. SUSTAINABILITY IMPLICATIONS

Nil

7. HUMAN RIGHTS IMPLICATIONS

Nil

8. WARD IMPLICATIONS

Monitoring: Various wards

9. BACKGROUND INFORMATION

Application reference DC/19/00739/S74B

Appendix 2 – Officers report

DELEGATED REPORT

DESCRIPTION OF PROPOSAL

Request to extend working hours previously approved under condition 26 and 27 of planning approval DC/19/00739/COU to 08:00 to 21:00 Monday to Saturday, no development to take place on Sundays, Bank or Public Holidays.

SITE LOCATION

Former Baja Beach Club
Pipewellgate
Gateshead
NE8 2BJ

RELEVANT PLANNING PERMISSION:

DC/19/00739/COU – Change of use from Sui Generis to B1 and internal refurbishments works, roof alterations and modifications (to include a linear asymmetrical dormer, sawtooth too and dormer infills) as amended by plans and additional information received 23.09.19 and 24.09.19.

PLANNING ASSESSMENT

On 22nd July 2020, the Business and Planning Act 2020 was given royal ascent and enacted in law in England and Wales. Section 16 of the Act (modification of conditions relating to construction working hours) comprises additional sections to the Town and Country Planning Act 1990 (Sections 74B-D). This section of the act provides a new temporary mechanism that allows applicants to modify conditions attached to planning permissions that control construction working hours. The aim of this is to allow those working on construction sites greater flexibility to support safe working in line with social distancing guidance on construction and other outdoor work in the face of the ongoing COVID19 pandemic.

The applicant has submitted an application under this part of the Act to modify the construction working hours imposed on the development site under application DC/19/00739/COU (conditions 26 and 27):

Condition 26

Unless otherwise approved in writing by the Local Planning Authority, all works, demolition and ancillary operations in connection with the construction of the development, including the use of any equipment or deliveries to the site, shall be carried out only between 0800 hours and 1700 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturday and at no time on Sundays, Bank Holidays or Public Holidays.

Reason : To safeguard the amenities of existing residents of Ochre Yards and future residents and in accordance with save Policy DC2 of the Unitary Development Plan and CS14 of the CSUCP.

Condition 27

Deliveries to the operational phase of the development hereby permitted shall only be between 0800 hours and 1700 hours on Mondays to Fridays and between 1800 hours and

1300 hours on Saturdays and at no time on Sundays, Bank Holiday or Public Holidays to protect the amenities of residents.

Reason: In order to protect the amenities of the existing residents of Ochre Yards and future residents and in accordance with save Policy DC2 of the Unitary Development Plan and CS14 of the CSUCP.

The submitted statement proposes to modify the hours of work to 08:00 to 21:00 Monday to Saturday, beginning 11th August 2020. In accordance with Section 74B(8), the hours of work will revert back to the conditioned hours on or before the 1st April 2021.

The modification to the condition would result in an additional four hours of construction per day during the week and an additional eight on Saturdays for 7 months.

For Local Planning Authorities as the decision makers, Section 74C of the Act states:

(1) If a person makes an application in accordance with section 74B to a local planning authority, the authority may by notice in writing to the person—

(a) modify the condition or approved document in accordance with the application, (b) refuse to modify the condition or approved document, or
(c) make a determination about any of the matters specified in subsection (2)

(2) Those matters are—

(a) the modifications to be made to the condition or approved document, so far as it relates to the times during which construction activities are permitted to be carried out,

(b) the date from which the modifications to the condition or approved document are to take effect, and

(c) the date at the end of which the modifications to the condition or approved document are to cease to have effect.

Consultation responses

Ward councillors and the Council's environmental health officers have been consulted on this application. 2 responses have been received which raise no objections to the proposed amendments.

Consideration of the amendments.

The site is well advanced in its construction.

The applicant's statement specifies that noisy works would take place during the usual construction hours as per the original consent and that the extended operating hours would be used only as required.

Other mitigation would include display of the revised operating hours on the site hoarding along with a key site contact details should members of the public wish to contact the construction team.

All other measures as outlined in the original Demolition and Construction Management Plan approved under condition 20 on 28th February 2020. The measures include: dust management plan, noise management plan, communication plan and a delivery plan.

The nearest residential properties to this development are at Ochre Yards some 200m up the embankment with significant intervening tree cover. In addition this part of Gateshead has high levels of traffic and activity into the evening with restaurants and other commercial outlets operating beyond the 2100 hours proposed.

It is therefore considered that this temporary amendment to conditions 26 and 27 would enable the developer to carry out internal and external building works whilst complying with the increased measures in line with social distancing guidance on construction and other outdoor work in the face of the ongoing COVID19 pandemic, whilst ensuring that the amenities of the nearby occupants are protected.

As such, no objection is raised to the temporary modification of the two conditions attached to planning application DC/19/00739/COU, subject to the adherence of the Demolition and Construction Management Plan approved under condition 20.

Recommendation: Approve the Modification as submitted

INFORMATIVE

This consent applies only to the conditions specified above. All other conditions remain to this application would still apply.

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