

**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

---

## **1.0 Purpose of the Report**

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

## **2.0 Background**

2.1 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.

2.2 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.

2.3 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.

2.4 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.

2.5 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.

2.6 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 4<sup>th</sup> November for this case. A copy of the report for this case is attached at Appendix 2.

### **3.0 Recommendation**

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

**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**

Crawcrook and Greenside

**9. BACKGROUND INFORMATION**

Application reference DC/20/00962/S74B

**APPENDIX 2 Officers Report**

**Delegated Decision Report**

---

**Application No: DC/20/00962/S74B**

<b>Case Officer</b>	<b>David Morton</b>
<b>Date Application Valid</b>	<b>21 October 2020</b>
<b>Applicant</b>	<b>Story Homes Ltd</b>
<b>Site:</b>	<b>Land North of A695 Crawcrook</b>
<b>Ward:</b>	<b>Crawcrook And Greenside</b>
<b>Proposal:</b>	<b>Request to extend construction working hours previously approved under Condition 23 of planning application DC/15/01004/FUL and subsequent non-material amendment DC/18/00015/NMA to 0730 and 1800 Monday to Friday, 0800 and 1300 Saturday with no construction on Sundays or Bank/Public Holidays.</b>
<b>Recommendation:</b>	<b>Grant Permission</b>
<b>Application Type</b>	<b>Working Hours Extension</b>

#### RELEVANT PLANNING PERMISSION:

The relevant planning approvals are set out below;

- DC/15/01004/FUL; Planning permission granted for “Residential development for 169 dwellings with associated access, car parking and landscaping including diversion of public rights of way and provision of signalised junction onto A695.” Date approved; 08 December 2016.
- DC/18/00015/NMA; Non-material amendment granted for ‘Proposed non-material amendment of application DC/15/01004/FUL to allow amendment of approved Construction Method Statement to reflect updated details for the site.’ Date approved; 07 February 2018.

#### 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 requested under this part of the Act to temporarily modify the construction working hours for the development, that are imposed on the development site. The approved development is controlled via the approved construction method statement entitled "*Land North of A695, Crawcrook, Construction Method Statement, February 2018*".

The relevant condition states:

*“Construction of the development shall take place in accordance with the construction method statement entitled "Land North of A695, Crawcrook, Construction Method Statement, February 2018" by Story Homes at all times.*

### *Reason*

*In the interests of the amenity of nearby occupiers and residents of the new development and highway safety and in accordance with policies CS13 and CS14 of the Core Strategy and Urban Core Plan and saved policy DC1 of the Unitary Development Plan.”*

The submitted statement proposes to temporarily modify the hours of construction of the development to:

- 0730 to 1800 Monday to Friday;
- 0800 to 1300 Saturdays; and
- No working on Sundays or Bank or Public Holidays.

The proposed extension of construction hours would only apply between Mondays and Fridays. No change is proposed to the existing approved construction hours for Saturdays and Sundays, Bank Holidays and Public Holidays.

It is proposed that the temporary extended construction hours would be in effect until 1st April 2021. After 1st April 2021, the original conditions over construction hours will resume.

The applicant has stated they are ‘... *applying for an additional half hour in the mornings Monday - Friday which in part is also with one eye on the nights closing in over winter, but principally it helps avoid a ‘bottleneck’ of arrivals at 8am by staggering start times.*’

The bottleneck being created as a result of the current Covid-19 pandemic, government guidelines have been updated to reflect the need to maintain a safe distance between operatives whilst on site, which limits the efficiency in which routine programme tasks can be completed.

By allowing an extension to the working hours, the construction team will be able to maintain a full working day, whilst at the same time continuing to operate in accordance with the approved construction method statement in all other regards.

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 have been consulted on this application; no objection has been received.

**Consideration of the amendments.**

The applicant's statement specifies, that in order to mitigate any impacts, that all works will continue to be carried out in accordance with the approved construction method statement in all regards (other than operating hours).

It is considered that the proposed alterations to construction hours would prevent bottlenecking of arrivals which in itself would have a positive impact on amenity. Further, given the modest (temporary) increase in construction hours i.e. 30 minutes per day Monday to Friday and the fact the site will continue to operate in accordance with the approved construction method statement it is considered no unacceptable impact would occur.

It is therefore considered that this temporary amendment to the approved construction method statement, would enable the developer to carry out 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 construction method statement, until 01 April 2021, subject to the adherence to the approved construction method statement in all regards (other than operating hours).

**Recommendation:**

**Approve the Modification as submitted**