

REPORT OF:	THE DIRECTOR OF GROWTH & DEVELOPMENT
TO:	PLANNING AND HIGHWAYS COMMITTEE
ON:	18th JUNE 2020
ORIGINATING SECTION:	DEVELOPMENT MANAGEMENT
WARDS AFFECTED:	ALL
COUNCILLORS:	ALL

TITLE OF REPORT:

EXTENDED WORKING HOURS ON CONSTRUCTION SITES – BLACKBURN WITH DARWEN BOROUGH COUNCIL’S APPROACH

1. PURPOSE OF THE REPORT

- 1.1 To inform Members of the guidance published by the Government in relation to local planning authorities adopting a flexible approach to allow developers to extend their construction working hours on development sites.
- 1.2 To be aware of the approach implemented by Blackburn With Darwen Borough in consultation with the Executive Member for Growth & Development, and the Chair of the Committee

2. BACKGROUND

- 2.1 The Government announced through their Written Ministerial Statement on the 13th May, that “*Our Plan to Rebuild: the UK Government’s COVID-19 recovery strategy*” published by the Government on Monday 11th May, makes clear that construction work can be undertaken across England providing sites are able to operate safely in line with the new COVID-19 Secure guidelines. A number of developers have already announced plans to restart work on sites. The purpose of this Written Ministerial Statement is to make clear that, with immediate effect, local planning authorities should take a swift and positive approach to requests from developers and site operators for greater flexibility around construction site working hours. This is to ensure that, where appropriate, planning conditions are not a barrier to allowing developers the flexibility necessary to facilitate the safe operation of construction sites during the response to the COVID-19 pandemic and to proceed at pace with work otherwise delayed as a result of COVID-19. Developers should expect their local planning authority to grant temporary changes to construction working hours until 9pm or later, 6 days a week,

wherever possible and where construction working hours are controlled by planning condition. This flexibility is in relation to controls imposed by the planning system only.

3. RATIONALE

- 3.1 The National Planning Policy Framework (2019) already emphasises that planning enforcement is a discretionary activity and local planning authorities should act proportionately in responding to suspected breaches of planning control.
- 3.2 Where only a short term or modest increase to working hours is required, local planning authorities should, having regard to the reason for the condition and to their legal obligations, not seek to undertake enforcement action.
- 3.3 Where developers require longer term or more significant changes to working hours, they should apply to the local planning authority to temporarily amend a condition or a construction management plan in the usual way i.e via a S73 application (variation of condition). In doing so, it will be important for applicants to consider potential impacts and, where necessary, to put forward brief plans to manage concerns, drawing on existing good practice. In return, local planning authorities should respond speedily and sympathetically and engage positively with applicants to find solutions. Local authorities should prioritise these types of applications and give early clarity on the acceptability of extended hours to developers. They should ensure that decisions are issued quickly – with the aim of doing so within 10 working days.
- 3.4 In allowing greater flexibility, the Government recognises the need to mitigate the impact that any temporary relaxation of working hours could have on local residents and businesses. Requests to extend working hours should be proportionate and should not involve working on Sundays or bank holidays.
- 3.5 The Government advises further that local authorities should not refuse requests to extend working hours until 9pm, Monday to Saturday without very compelling reasons for rejection. Applications should only be refused where there are very compelling reasons such as significant impact on neighbouring businesses or uses which are particularly sensitive to noise, dust or vibration, which cannot be overcome through other mitigation, or where impacts on densely populated areas would be unreasonable.
- 3.6 Any temporary changes to construction working hours conditions granted by local planning authorities should not extend beyond 13 May 2021.

4. KEY ISSUES

- 4.1 Local Planning Authorities are encouraged to support the requests for extended working hours. Where this is short term & only a modest increase in the working hours, this is undertaken via an informal agreement. The developers must put this in writing how they are proposing to operate and the type of activity beyond

the existing authorised hours. For example, a short term period to get the construction sites back moving, is until the end of August.

- 4.2 It has been agreed in consultation with Public Protection that there is no heavy machinery, ground working or HGV construction activity occurring before 7:30am and after 6:00pm (the latter being the existing hours of construction). This will also include no vehicles parking up before these extended times. Beyond these times e.g. 7:00am and up to 9pm (4pm on a Saturday) it should only be non-noisy activity i.e. tradepersons working on the dwellings e.g. bricklayers; plasterers, electricians, painters/decorators etc. This will not include any extended hours on a Sunday or bank holiday.
- 4.3 If the changes are minor and shortlived as set out above this would be agreed via an informal agreement.
- 4.4 The developer will be required to post a leaflet through all local residents' doors setting out the dates, times, activities and (critically) their site manager's name and mobile number, or out of office number, so if issues arise they can be immediately addressed. This is because the Council offices will be shut during these additional periods of activity. The leaflet must be posted at least 5 working days before the activity starts.
- 4.5 The Planning Manager will inform the Ward Councillors/Parish Council once the request has been received to make them aware of what has been informally agreed, and this will be monitored i.e. if there are continuing complaints relating to the extended hours then we have the power to cease this immediately. In addition, Public Protection officers will be consulted for their comments.
- 4.6 If developers wish to have a longer period beyond the end of August 2020, and/or longer working hours, then it is proposed they must formally apply via a Section 73 (Variation of Condition application) i.e the ministerial statement says these extended hours should not extend beyond 13 May 2021. However, the local planning authority only has 10 working days to determine these applications.
- 4.7 Further advice on this approach and the Government guidance is published on the planning webpage at <https://www.blackburn.gov.uk/planning>
- 4.8. At the time of writing this report, two formal requests have been received. These are:

BL\2020\ENQ\08966 – Land at Tower Road, Blackburn (Applethwaite Ltd) – received 29th May 2020:

- Extend Construction Working Hours - for period ending 31st August 2020- Monday - Friday (excl. Bank Holidays) 7.30am start to 6pm finish and Saturdays 7.30 site opening up with an 8.00am start to 4pm finish. Pursuant to planning application 10/19/0677.

BL\2020\ENQ\08977 – Land to the west of Cranberry Lane, Darwen (McDermott Homes Ltd) – received 2nd June 2020:

Extend Construction Working Hours - for period ending 31st August 2020- Monday to Friday 7am to 8pm, with no heavy plant activity before 7:30am or after 6pm (excl Bank Holidays), and Saturdays 7:00am to 4:00pm, with no heavy plant activity before 7:30am Pursuant to planning application 10/17/1313 - Condition No.27.

5. POLICY IMPLICATIONS

5.1 None

6. FINANCIAL IMPLICATIONS

6.1 None.

7. LEGAL IMPLICATIONS

7.1 None.

8. RESOURCE IMPLICATIONS

8.1 None.

9. EQUALITY IMPLICATIONS

9.1 These are changes proposed to secondary legislation, therefore no local equality impact assessment has been made.

10. CONSULTATIONS

10.1 The approach was presented to the Executive Member for Growth & Development and Chair of the Committee on the 18th May 2020.

11. RECOMMENDATION

11.1 (i) That the Committee note the issues described in the report.

(ii) That the Committee endorse and approve the proposed approach in relation to extending the hours of construction.

Contact Officer: Gavin Prescott, Planning Manager (Development Management)

Date: 3rd June 2020

Background Papers: (i) Ministerial Statement “ Our Plan to Rebuild: the UK Government’s COVID-19 recovery strategy” – 13th May 2020;
(ii) Coronavirus (COVID-19): construction update Q&A – 13th May 2020 – Ministry of Housing, Communities & Local Government