

CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of meeting: 17 September 2014
Report of: Adrian Fisher, Head of Strategic & Economic Planning
Title: Imposition of Hours of Construction Condition

1.0 Purpose of Report

- 1.1 To consider a motion submitted by Councillor D Brickhill for consideration by SPB.
- 1.2 In accordance with the procedure rules relating to Committees and Sub-Committees: Procedure Rule No 34-Agenda Items submitted by Members, any Member of the Council may, by notice given to the Monitoring Officer no later than ten clear working days before the appropriate meeting, request that an item of business be included on the agenda of a Committee or Sub-Committee. Councillor D Brickhill has submitted in writing a request that an item relating to an hours of construction condition be included on the Strategic Planning Board agenda.
- 1.3 The motion being *'that on all approvals by Cheshire East Officers or committees for buildings a times of NO construction working condition be imposed. This should normally be from 6 pm on a weekday night until 8 am on the following weekday morning. On Saturdays the no working period shall be from 2pm until 8am on the following Monday morning. Further there shall be no working on a statutory bank holiday or on a Sunday, Committees may make an exception to this rule for building by the owner of a single house or extension.'*

2.0 Decision Required

- 2.1 To note the contents of the report and that members agree to the proposed approach that informatives are used on decisions to advise of the agreed hours of construction for developments.

3.0 Background

- 3.1 It is common that developments require some form of construction to enable the development to take place. Consideration therefore needs to be given to the proximity of other property and whether noise generating activity will impact on that property and their occupiers – with a particular reference to residential amenity.

- 3.2 There has been much confusion over the years about the appropriate method for controlling construction noise and whether planning conditions should be used or whether it falls under other legislation outside of the Planning Acts. This position is not helped by Inspectors at appeal also taking differing approaches with some accepting conditions and others advising that it is not appropriate or necessary.
- 3.3 What is clear is that conditions should not be imposed on planning applications where this is covered and controlled by other legislation as it would be deemed *unnecessary* and fail one of the legal tests for imposing a planning condition.
- 3.4 At present the planning applications are judged on their merits and consideration given to amenity issues and where necessary applying appropriate conditions, including on occasion an hours of construction condition or an informative. On larger schemes this can include an Environmental/Construction Management Plan condition which seeks wider controls including deliveries to site, site parking, times of deliveries, defined routes for construction vehicles. This will often follow consultation with Environmental Health who will advise of certain conditions or informatives that should be considered in approving an application. (It should be noted an informative is not a condition but an advisory that is included on the decision notice)
- 3.5 The appropriate control for noise does fall under environmental health legislation as any complaints about noise would be addressed under the Control of Pollution Act 1960. The current standard advice from Environmental Health in respect of hours of construction is as follows, with the recommendation that this be included as an informative not a condition:

It is recommended that the hours of noise generative* demolition / construction works taking place during the development (and associated deliveries to the site) are restricted to:

Monday – Friday	08:00 to 18:00 hrs
Saturday	09:00 to 14:00 hrs
Sundays and Public Holidays	Nil

**For information "Noise Generative" is defined as any works of a construction / demolition nature (including ancillary works such as deliveries) which are likely to generate noise beyond the boundary of the site.*

- 3.6 It is not considered appropriate to include this as a condition on all approvals. Firstly, it may not be necessary in all situations – such as where there are no near neighbours and therefore impact on amenity. Secondly, given that it is controlled under Environmental Health legislation it is not considered appropriate to include it as a condition.

4.0 Conclusion

- 4.1 Given that noise is controlled under other it is recommended that the following approach be used, which broadly reflects those that are currently in place and operate effectively.
- 4.2 Where there are concerns about the potential impact of construction, judged on a case-by-case basis, an informative be added to decision notices which advises of the following:

It is recommended that the hours of noise generative* demolition / construction works taking place during the development (and associated deliveries to the site) are restricted to:

Monday – Friday	08:00 to 18:00 hrs
Saturday	09:00 to 14:00 hrs
Sundays and Public Holidays	Nil

**For information "Noise Generative" is defined as any works of a construction / demolition nature (including ancillary works such as deliveries) which are likely to generate noise beyond the boundary of the site.*

- 4.3 For larger schemes Environmental/Construction Management Plan schemes should continue to be used.

5.0 Recommendation

- 5.1 That the report is noted and Members agree to the proposed approach that informatives are used on decisions to advise of the agreed hours of construction for developments.

6.0 Financial Implications

- 6.1 There are no financial implications.

7.0 Legal Implications

- 7.1 No direct legal implications. However it should be noted that any condition imposed must meet the legal tests for a planning condition advocated within the Planning Practice Guidance. If not, they could be challenged at appeal.

8.0 Risk Assessment

- 8.1 There are no risks associated with this decision.

9.0 Reasons for Recommendation

- 9.1 To ensure that the appropriate approach is adopted in dealing with amenity issues associated with hours of construction.

For further information:

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