



DEVELOPMENT MANAGEMENT COMMITTEE

Report by Head of Planning, Economic Development and Regeneration

1 DESCRIPTION

Application under Section 42 without complying with condition 10 of planning permission 0848/FUL/19 for erection of 48 houses to allow change to construction working & deliveries hours to 0800-1800 Mondays to Fridays and 0800-1300 Saturdays at Hartwood Road, West Calder.

2 DETAILS

Reference no.	0501/FUL/21	Owner of site	Persimmon Homes East Scotland
Applicant	Persimmon Homes East Scotland	Ward & local members	Fauldhouse and the Breich Valley Councillor Pauline Clark Councillor David Dodds Councillor Cathy Muldoon
Case officer	Mahlon Fautua	Contact details	01506 282426 mahlon.fautua@westlothian.gov.uk

Reason for referral to Development Management Committee: Objection received from West Calder & Harburn Community Council

3 RECOMMENDATION

Grant planning permission, subject to conditions.

4. DETAILS OF THE PROPOSAL AND BACKGROUND
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- 4.1 Planning permission is sought to vary condition 10 of planning permission 0848/FUL/19 to allow change to construction working & deliveries hours to 0800 -1800 Mondays to Fridays and 0800 -1300 Saturdays at Hartwood Road.
- 4.2 The development of 48 houses at the site was supported by Development Management Committee on 19th February 2020 and planning permission was issued on 10th March 2021 following the conclusion of a legal agreement to secure developer contributions.

4.2 Condition 10 of permission 0848/FUL/19 currently reads;

10 *The following restrictions shall apply to the construction of the development:*

Noise (Construction)

Any work required to implement this planning permission that is audible within any adjacent noise sensitive receptor or its curtilage shall be carried out only between the hours of 0900 and 1800 Monday to Friday and 0900 and 1300 on a Saturday and at no time on a Sunday. This includes deliveries and operation of on-site vehicles and equipment.

No generators shall be audible within any residential properties between the hours of 2000 and 0900.

Noise (Vehicles/Plant)

All site vehicles (other than delivery vehicles) must be fitted with non-tonal broadband reversing alarms.

Heavy goods vehicles shall not arrive or leave the site except between the hours of 0900 and 1700 Monday to Friday and 0900 and 1300 on a Saturday. No heavy goods vehicles shall arrive or leave the site on a Sunday.

Vibration (Construction)

Where piling or other significant vibration works are likely during construction which may be perceptible in other premises, measures must be in place (including hours of operation) to monitor the degree of vibration created and to demonstrate best practice.

Prior to any piling or other significant vibration works taking place, a scheme to minimise and monitor vibration affecting sensitive properties shall be submitted to and approved in writing by the planning authority. Thereafter the development shall be implemented in accordance with the details as approved.

Site Compound

The development shall not begin until the location and dimensions of any site compound have been submitted to and approved in writing by the planning authority. Thereafter the development shall be implemented in accordance with the details as approved.

Waste

Effective facilities for the storage of refuse, building debris and packaging shall be provided on site. The facilities shall be specifically designed to prevent refuse, building debris and packaging from being blown off site. Any debris blown or spilled from the site onto surrounding land shall be cleared on a weekly basis. For the purposes of this condition, it shall be assumed that refuse, debris and packaging on surrounding land has originated from the site if it is of the same or similar character to items used or present on the site.

Wheel Cleaning

All construction vehicles leaving the site shall do so in a manner that does not cause the deposition of mud or other deleterious material on the adjacent public highway. Such steps shall include the cleaning of the wheels and undercarriage of each vehicle where necessary and the provision of road sweeping equipment.

Reason: In the interests of visual and environmental amenity.

Application History

- 4.4 0848/FUL/19 - Erection of 48 houses with access road, SUDS, landscaping and associated works. Granted 10th March 2021
- 4.4 0554/91 - Erection of 3 houses with associated works. Withdrawn
- 4.5 0161/94 - Erection of a house. Refused 19/4/94 (Part of site)

5. REPRESENTATIONS

- 5.1 The application was subject of statutory publicity and four representations were received. One neutral comment and three objections were received including an objection from West Calder & Harburn Community Council. The full representations are attached to the report.
- 5.2 This is a brief summary of the representations received.

Objecting Comments	Response
Traffic impact <ul style="list-style-type: none">• Road safety (children walking to school)• Disruption of construction vehicles on road• Pollution• Disregard of speed limit• The amount of objections on the original application raised transport and road safety.	Noted.
Why was the hours not followed when work began. Work has been starting at 7am	Noted.

6. CONSULTATIONS

- 6.1 This is a summary of the consultations received. The full documents are contained in the application file.

Consultee	Objection	Comments	Planning Response
WLC Roads & Transportation	No		Noted
WLC Environmental Health	No		Noted

7. ASSESSMENT

- 7.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 7.2 The development plan comprises the Strategic Development Plan for South East Scotland (SESplan) and the West Lothian Local Development Plan, 2018.
- 7.3 Notwithstanding this, for an application under section 42 of the Town and Country Planning (Scotland) Act 1997, the planning authority is able to consider only the question of the conditions subject to which planning permission should be granted, and
- a) if they decide that planning permission should be granted subject to conditions differing from those subjects to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly;
 - b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

The applicant seeks to vary Condition 10 of the 0848/FUL/19 which specifically relates to construction working & deliveries hours

- 7.3 The relevant development plan policies in relation to assessing this application are listed below:

Policy	Policy Summary	Assessment	Conform
West Lothian Local Development Plan, 2018 (LDP) Policy DES 1 – Design principles	Development proposals should have no significant adverse impacts on the local community and where appropriate, should include measures to enhance the environment and be high quality in their design.	The associated construction phase will create disruption and potential to have some adverse traffic impacts. Nonetheless these impacts are temporary in nature. There were no specific reasons or requirements for the inclusion of a 9am start time in the original	Yes

Policy	Policy Summary	Assessment	Conform
		<p>assessment of the proposed development. Further, there are no material circumstances to depart from the standard construction starting time on this site.</p> <p>The proposed change in working hours would not significantly increase any of these impacts from the original permitted construction hours.</p>	

8. CONCLUSION AND RECOMMENDATION

- 8.1 In summary, the proposed amendment to the starting time of the permitted construction working hours from 9am to 8am is acceptable and the impacts are temporary in nature and would not significantly increase any of these impacts from the original permitted construction hours.
- 8.2 Consequently, and in view of the above, it is recommended that planning permission is granted, subject to conditions.

9. ATTACHMENTS

- Draft Conditions of Consent
- Location Plan
- Aerial Photo
- Representations

Craig McCorriston
Head of Planning, Economic Development and Regeneration **Date: 14 July 2021**

Draft Conditions of Consent - APPLICATION 0848/FUL/19

1. Prior to the commencement of development, the following detail has been submitted to and approved in writing by the planning authority.
 - (i) Extending the double yellow lines on Kirkgate near A71 junction. The costs for promoting a traffic regulation order for shall be paid by the developer.
 - (ii) Speed limit signs to be relocated to south side of the development and shall relate to extension of street lighting.
 - (iii) Street lighting locations within the site shall be adopted on 2 metre by 1 metre plinths.
 - (iv) Traffic calming in the form of road narrow points with appropriate signs and road markings to be provided at the following points:-
 - East side of Hartwood Road opposite plot 48.
 - West side of Hartwood Road in front of plot 8.
 - East side of Hartwood Road between No. 32 & 34 existing

Thereafter the works shall be carried out in accordance with the details as approved, prior to the first house being occupied.

Reason: To ensure that suitable traffic measures are put in place on Hartwood Road to mitigate any traffic impact from the approved development.

2. The landscaping, including tree replanting, as approved in the approved landscaped proposals shall be implemented in the first planting season following any residential unit being occupied, or completion of the development, whichever is sooner.

The new planting shall be maintained for a minimum period of five years until it becomes established. Any trees which within a five year period following completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species unless the planning authority gives written consent to any variation.

Reason: To ensure proper implementation of the planting proposals in the interest of the amenity of the site and the area as a whole.

3. Prior to the commencement of development, a plan showing all common areas and details of the body who will own and maintain the common areas, together with a schedule of maintenance works, has been submitted to and approved in writing by the planning authority.

Thereafter the common areas shall be maintained in accordance with the details as approved.

Reason: To enable full consideration to be given to those details which have yet to be submitted, in the interests of visual and environmental amenity.

4. Prior to the commencement of development, full details and samples of the materials to be used as external finishes on all buildings and for all roads, parking and hardstanding areas shall be submitted to and approved by the planning authority, and the development shall be carried out strictly using those approved materials.

Reason: To enable full consideration to be given to those details which have yet to be submitted, in the interests of visual and environmental amenity.

5. Surface water from the development shall be treated and attenuated by a sustainable drainage system (SUDS) in accordance with the Drainage Statement prepared by indev consult dated July 2019

Reason: To minimise the cumulative effects of surface water and diffuse pollution on the water environment.

6. Prior to the commencement of development, details of electric charging points shown on the approved site plan shall be submitted to and approved in writing by the planning authority. Plans should also detail who will be responsible for managing and maintaining charging infrastructure and this should include arrangements for managing access to EV charging spaces and arrangements for paying for the electricity used during charging.

Thereafter, the approved details shall be installed prior to the occupation of the relevant houses.

Reason: To enable consideration of these details which have yet to be submitted and in the interests of privacy and amenity.

7. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

Reason: To ensure necessary measures should any potential archaeological features are encountered.

8. The development shall not begin until an updated engineering layout including details of proposed ground and floor levels has been submitted to and approved in writing by the planning authority.
Thereafter the development shall be implemented in accordance with the details as approved.

Reason: To enable full consideration to be given to those details which have yet to be submitted, in the interests of visual and environmental amenity.

9. All walls, fences and other means of enclosure as approved shall be implemented prior to occupation of the houses.

Reason: In the interests of privacy and amenity.

Reason: To comply with the requirements of the Air Quality Planning Guidance, in the interest of sustainability.

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Reason: In the interests of visual and environmental amenity.





From: [Joan O'Donnell](#)
To: [Fautua Mahlon](#)
Subject: RE: Planning application 0501/FUL/21 - [OFFICIAL]
Date: 07 June 2021 15:00:02

Hi Mahlon:

Thanks.

I've just loaded the objection onto the portal but a copy is shown below, for your reference.

West Calder & Harburn Community Council wish to lodge an objection to this planning application. Condition 10 was put in place to specifically address the safety of all schoolchildren who cross Hartwood Road at the junction with the A71 and who cross the road, at the no limit sign, at the eastern point of the development site, before 9am, Mondays to Fridays. The junction with A71 is a particular concern as there is no School Crossing Attendant in place until 8.30am. Residents have also complained to the community council that construction vehicles are not adhering to the 20mph speed limit, which further endangers the safety of schoolchildren, nursery children and other residents (some of whom are elderly/wheelchair users). Given that West Lothian Council Planning Department stipulated the need for condition 10, to be incorporated in the final document "Decision to grant planning permission", on 10 March 2021, we would respectfully urge that this application be rejected, in the interests of public Health & Safety.

Best regards,

Joan

Joan O'Donnell
Chairperson,
West Calder & Harburn Community Council,
West Calder Community Centre, Dickson Street, West Calder. EH55 8DZ
Email: [REDACTED]
Mobile: [REDACTED]

Sent from [Mail](#) for Windows 10

Comments for Planning Application 0501/FUL/21

Application Summary

Application Number: 0501/FUL/21

Address: Land West Of Hartwood Road West Calder West Lothian

Proposal: Application under Section 42 without complying with condition 10 of planning permission 0848/FUL/19 for erection of 48 houses to allow change to construction working & deliveries hours to 0800 -1800 Mondays to Fridays and 0800 -1300 Saturdays

Case Officer: Mahlon Fautua

Customer Details

Name: Mr Dennis O'Donnell

[REDACTED]

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:I would strongly urge the D.M.C. to reject this application. The assertion in the Covering Letter that "the standard starting time at construction sites in West Lothian and across Scotland is 0800" should have no material effect upon the specific situation obtaining at this site. The primary consideration must be safety of life and limb.

Many objectors to the original application made the committee aware of the unique nature of the dangers of this development. The 120-odd objectors have seen many of their greatest fears regarding transport and road safety come to pass. Most of the heavy goods vehicles and other delivery traffic do not observe the speed limit, either arriving at the site, or departing from it. Furthermore, they park on Hartwood Road (a narrow C- road) whenever it suits them to do so, and pay scant regard to driveways, or any other consideration. Last week, for example, on Wednesday June 2nd, HGVs were arriving in numbers to be loaded with soil and transport it elsewhere. At one point, FIVE large, eight-wheeled lorries were parked, one behind the other, along Hartwood Road, all with their engines idling. An elderly neighbour, who had been in his garden enjoying the good weather, had to go indoors because he experienced difficulty breathing, the air had so rapidly become polluted.

The footpath which runs along the site's eastern boundary runs from Dickson Street, past the playing field, to Hartwood Road. There is a crossing at the speed limit signs which connects the far side of Hartwood Road with Westmuir and the Glebe. This is frequented at all times of day by people including disabled people, people going to and returning from the shops, people walking dogs, parents with children (including mothers with prams), children going to the playing field and, perhaps most significantly for the specific time-change consideration in this application, by schoolchildren walking to West Calder High, between 8 o'clock and school starting.

Children from the western part of the village, rather than walk the entire length of Main Street,

having to cross several roads at peak time and onwards to West Calder High, come up by the footpath, cross towards Westmuir and proceed to the school via the quieter, and (hitherto) safer, roads of the housing estates.

The site traffic, with its disregard of the speed limit, presents a very real and very grave threat to all pedestrians at this point. The retention of the 9 o'clock starting time would immediately remove this danger of injury or even death at the narrow crossing point, from a significant number of young residents. On this point alone, I urge rejection of the application.

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Case Officer: Mahlon Fautua

Customer Details

Name: Mr Craig Deerness

[REDACTED]

Comment Details

Commenter Type: Neighbour

Stance: Customer made comments neither objecting to or supporting the Planning Application

Comment Reasons:

Comment: Dear Sir/Madam,

I have no objection to the West Lothian times or amendments suggested.

However I would like to know why this wasn't followed when work began? I have two young children, our house is adjacent to the site, and work had been starting at 7am. Will the plan be adhered too? This is my only concern.

Regards

Craig Deerness

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Case Officer: Mahlon Fautua

Customer Details

Name: Mr Ian Simmonds

[REDACTED]

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The original application for this development (0848/FUL/19) attracted a huge number of objections (over 140), and was only passed by the Chairman's casting vote. To even be considering an easing or the restrictions at such an early stage is, to say the least, shocking. I live around 30 metres from the edge of the site, and have already experienced disruption from it. We've had a low loader break the pavement outside number 46, and a steady flow of eight wheeler tipper trucks who seem to have no sense of what a 20mph. limit means. I have grandchildren that live two doors away, and STRONGLY object to you allowing the site to be functioning when young kids are either walking, or being taken to school. PLEASE let the original restrictions remain in place. The traffic mayhem predicted by many objectors, and local councillors is already a reality for us residents.