

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 12 AUGUST 2011

11/0413/PP: ALTERATION TO CONDITION 10 TO EXTEND SATURDAY WORKING HOURS TO 08:00 HOURS - 17:00 HOURS AND TO ALLOW SUNDAY WORKING HOURS FROM 10:00 HOURS TO 16:00 HOURS BY PRIOR ARRANGEMENT AND AGREEMENT WITH PLANNING AUTHORITY FOR THE DAYS REQUESTED.

**AT DARVEL PRIMARY SCHOOL, CAMPBELL STREET EAST, DARVEL
BY EAST AYRSHIRE COUNCIL**

Report by Head of Planning and Economic Development

Click for Application Details: <http://eplanning.east-ayrshire.gov.uk/online/caseFile.do?category=application&caseNo=11/0413/PP>

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Planning permission is sought to amend Condition no. 10 of the planning consent for the extension to Darvel Primary School. Condition 10 currently reads as follows:-

'No demolition or external construction work, site clearance or preparation works shall take place before 08:00 hours and after 18:00 hours on Mondays to Fridays and before 08:00 hours and after 13:00 hours on Saturdays, nor at any time on Sundays.

REASON: In the interests of residential amenity.'

1.2 The applicant is seeking changes to the wording of this condition to extend the period allowed for Saturday working to 5pm (17:00 hours) i.e. for an additional 4 hours each Saturday and to allow Sunday working to take place by prior arrangement and agreement with the Planning Authority for specific Sundays requested by the contractor. Members are advised that it is only demolition, construction, site clearance and preparation works i.e. noisier site works that are controlled by this condition.

1.3 The supporting statement that has been submitted by the applicant advises that the extension of working hours to construct the new extension to the primary school has been requested as it is not possible to undertake some of the

works during school hours for health and safety reasons, to avoid disturbance to the operation of the school and to ensure that the proposed extension to the primary school can be delivered within the council's defined construction period of 50 weeks with minimal disturbance to the local community. The applicant's agent has advised that the contractor will endeavour to work alongside staff, pupils and local residents to ensure that inconveniences are kept to a minimum and the contractor has appointed one of their employees to be a Community Liaison Officer to will liaise with both the Planning Authority and the local community to keep them informed of progress on site.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the condition indicated on the enclosed sheet.

3. CONCLUSIONS

3.1 As indicated at Section 5 of the report, there are no relevant policies within the Development Plan to assess this application against. Therefore given the terms of Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997, the application should be assessed against the relevant material considerations.

3.2 As indicated at Section 6 of the report there are relevant material considerations. The applicants have sought an extension to the hours of operation for demolition or external construction work, site clearance or preparation works. The consultation response from Environmental Health raises pertinent issues and notes that residential amenity is of particular importance. The letters of objection also refer to residential amenity and state that residents should be able to expect some respite from construction works.

3.3 The concerns raised at initial works on site outwith the original terms of Condition 10 have been discussed and there have been no complaints to Planning and Economic Development since such matters were brought to the agent's attention. Noting the letters of objection and the advice from Environmental Health it would be appropriate in terms of residential amenity to permit works on site for demolition, external construction work, site clearance or preparation works to take place on a Saturday until 5pm and then to have no such works on a Sunday.

3.4 Such a course of action would ensure that residents can enjoy some respite from construction activities during the weekend without noisier works on site taking place. As the construction works on site continue the condition allows for quieter types of work e.g. internal work to take place outwith these times although Environmental Health will be able to take action should such works cause a nuisance. Furthermore any breaches of working hours can be

investigated by Planning and Economic Development who can discuss this project with the applicant's and their agents within the Council.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, it will not require to be referred to Council as there would be no significant breach of Council policy.

Alan Neish
Head of Planning and Economic Development

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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11/0413/PP: ALTERATION TO CONDITION 10 TO EXTEND SATURDAY WORKING HOURS TO 08:00 HOURS - 17:00 HOURS AND TO ALLOW SUNDAY WORKING HOURS FROM 10:00 HOURS TO 16:00 HOURS BY PRIOR ARRANGEMENT AND AGREEMENT WITH PLANNING AUTHORITY FOR THE DAYS REQUESTED.

**AT DARVEL PRIMARY SCHOOL, CAMPBELL STREET EAST, DARVEL
BY EAST AYRSHIRE COUNCIL**

Report by Head of Planning and Economic Development

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a planning application which is to be considered by the Local Planning Committee under the scheme of delegation as East Ayrshire Council is the applicant.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site extends to approximately 0.8 hectare in area and comprises the site of the existing Darvel Primary School which is a red sandstone building with a natural slate roof. The application site is bound to the north by residential property and agricultural land, to the east by residential property and to the south by Campbell Street East beyond which is the Gavin Hamilton Sports Centre and playing field. To the west lies Jamieson Road and residential property. The site is elevated above the road and site levels continue to rise towards the north of the site and more sharply outwith the site to the north. A new extension to the primary school is currently underway and in addition, certain improvement works are being carried out to the main school building as detailed in Section 6 of this report.

2.2 **Proposed Development:** Planning permission is sought to amend Condition no. 10 of the planning consent for the extension to Darvel Primary School. Condition 10 currently reads as follows:-

'No demolition or external construction work, site clearance or preparation works shall take place before 08:00 hours and after 18:00 hours on Mondays to Fridays and before 08:00 hours and after 13:00 hours on Saturdays, nor at any time on Sundays.

REASON: In the interests of residential amenity.'

2.3 The applicant is seeking changes to the wording of this condition to extend the period allowed for Saturday working to 5pm (17:00 hours) i.e. for an additional 4 hours each Saturday and to allow Sunday working to take place by prior arrangement and agreement with the Planning Authority for specific Sundays requested by the contractor. Members are advised that it is only demolition, construction, site clearance and preparation works i.e. noisier site works that are controlled by this condition.

2.4 The supporting statement that has been submitted by the applicant advises that the extension of working hours to construct the new extension to the primary school has been requested as it is not possible to undertake some of the works during school hours for health and safety reasons, to avoid disturbance to the operation of the school and to ensure that the proposed extension to the primary school can be delivered within the council's defined construction period of 50 weeks with minimal disturbance to the local community. The applicant's agent has advised that the contractor will endeavour to work alongside staff, pupils and local residents to ensure that inconveniences are kept to a minimum and the contractor has appointed one of their employees to be a Community Liaison Officer to will liaise with both the Planning Authority and the local community to keep them informed of progress on site.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Environmental Health Service has advised that a balance is required between the needs of the development on site and the need to protect the amenity of the area for residents. It is acknowledged that some elements of the project will unavoidably result in disturbance to staff and pupils at the school if carried out during school operating times, however the need to protect amenity for residents must also be considered. It is therefore recommended that the operating hours be extended for the Saturday as requested by the applicants but that the request for Sunday working not be approved. Environmental Health also points out that if the extended hours of operation on a Saturday (or at any other time) result in complaints of nuisance from noise, dust etc., then Environmental Health would investigate under the provisions of the Environmental Protection Act 1990 and would take action if a Statutory Nuisance was deemed to exist.

The recommendation from Environmental Health has been discussed with the applicant's agent who has confirmed that this is considered to be an acceptable compromise and would allow works to progress on site whilst also affording protection to local residents from noisy/external construction site works on Sundays. It is noted that once the extension has been erected work can be carried out internally within the building, under the terms of Condition 10 as detailed in Section 2.2 of this report. "Quieter" work can therefore continue outwith these hours later in the construction programme of

this site which would not be in breach of the condition. Such quieter work should not however cause adverse amenity impacts to residents living in the surrounding residential area by its very nature and notwithstanding this, Environmental Health can monitor any such works as an additional control measure if they were deemed to cause a nuisance at such time and if any complaints were received. Furthermore as this is a council project, any complaints can be acted upon and taken into consideration by Corporate Infrastructure as agent and project administrator for the Council in this development.

3.2 Darvel and District Community Council has not replied to their consultation at the time of writing this report.

4. REPRESENTATIONS

4.1 Four letters of representation representing 4 individual objectors have been submitted following neighbour notification and public advertisement of the application. The points of objection can be summarised as follows:-

4.2 Whilst objectors advise that they understand the need to complete the building works, the current time limits have already been breached since the project commenced on site and if an extension of time is granted this could lead to further breaches of agreed hours. Since the project started on site, machinery has been getting delivered at 5am, the security guards would sit in their cars with their car engines running, the site being opened shortly after 7am, earth moving equipment being used until 10pm and site personnel leaving the site as later as midnight. Whilst it would be best to get this development completed on site as soon as possible, residents have a right to peace and privacy and if the contractor cannot work to the terms of the existing consent then further extending the hours of operation, would be detrimental to the amenity of residents.

The applicant's agent has responded to these objections and advised that when works commenced on site there were issues with deliveries arriving early and early/late working and the contractor was made aware of their duty to comply with Condition 10 of the planning consent. The applicant's agent and the contractor attended a meeting of Darvel Primary School and these issues were discussed. The applicant's agent considers that their attendance at this meeting allowed for discussion with both community council members and neighbours to the application site and the contractor was able to respond to complaints and provide an undertaking to adhere to the terms of the condition and also to apologise for the breaches that had taken place. The applicant's agent has also advised that the security guards were employed by the council to monitor the site for security/health and safety reasons when the dining hall was being demolished and when asbestos was being removed from the site and they were not aware at the disturbance

being caused to neighbours. Had the agent been aware of these issues the matter would have been addressed.

It is noted that objectors are concerned about their residential amenity albeit they also acknowledge that it would be beneficial to have the project completed as early as possible. Noting the comments from the Environmental Health Service it is considered that a compromise could be to allow Saturday working until 5pm and discard the plans for Sunday working. The applicant's agent has agreed with this suggested compromise.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan and Adopted East Ayrshire Local Plan 2010 (EALP).

Approved Ayrshire Joint Structure Plan (AJSP)

5.2 There are no particularly relevant policies against which to assess the proposed development within the Ayrshire Joint Structure Plan.

Adopted East Ayrshire Local Plan (EALP)

5.3 There are no particularly relevant policies against which to assess this application within the East Ayrshire Local Plan and the application should therefore be assessed against the material considerations detailed in Section 6 of this report.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultations received, letters of representation, the impact of the development on the amenity of the surrounding area and the planning history of the site.

Consultation Responses

6.2 The consultation response from Environmental Health does not raise any issues that suggest the application should be refused but does suggest a compromise which would allow the applicant to progress with site construction works whilst also affording neighbours some respite from noisy construction works on a Sunday.

Letters of Representation

6.3 The letters of representation highlight concerns at the initial operations on site and subsequently the applicant's agent and contractor attended a meeting of the community council to discuss these issues. Notwithstanding this, objectors point out that their concerns at the impact of the extended working on their standards of residential amenity and in this respect the consultation response from Environmental Health is of particular relevance. Any breach of the agreed working hours would also be an enforcement issue for the Planning and Economic Development Service to resolve with the applicants and their contractor on site. It is also noted that since the initial complaints that were received concerning the breaches of the approved hours of construction, no further complaints have been lodged.

Impact on the Amenity of the Area

6.4 The proposed development at Darvel Primary School is now underway on site and as noted in Environmental Health's consultation response and in the letters of objection, it would be beneficial to the residential amenity of the surrounding area for the construction programme to be completed as quickly as possible. Notwithstanding this however the works on site are taking place within a predominantly residential area and residents are therefore entitled to expect times when construction works would not be undertaken.

Planning History of the Site

6.5 Planning Application no. 10/0688/PP for the "Extension to primary school to provide additional classrooms, ancillary accommodation, nursery school, new car park, new artificial external lighting and associated access and landscaping" at Darvel Primary School, Campbell Street East, Darvel was approved subject to conditions by the Northern Local Planning Committee on 4 February 2011.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are financial implications for the Council in the determination of this application separate to the planning process. There are no legal implications for the Council in the determination of the application.

8. CONCLUSIONS

8.1 As indicated at Section 5 of the report, there are no relevant policies within the Development Plan to assess this application against. Therefore given the terms of Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997, the application should be assessed against the relevant material considerations.

8.2 As indicated at Section 6 of the report there are relevant material considerations. The applicants have sought an extension to the hours of operation for demolition or external construction work, site clearance or preparation works. The consultation response from Environmental Health raises pertinent issues and notes that residential amenity is of particular importance. The letters of objection also refer to residential amenity and state that residents should be able to expect some respite from construction works.

8.3 The concerns raised at initial works on site outwith the original terms of Condition 10 have been discussed and there have been no complaints to Planning and Economic Development since such matters were brought to the agent's attention. Noting the letters of objection and the advice from Environmental Health it would be appropriate in terms of residential amenity to permit works on site for demolition, external construction work, site clearance or preparation works to take place on a Saturday until 5pm and then to have no such works on a Sunday.

8.4 Such a course of action would ensure that residents can enjoy some respite from construction activities during the weekend without noisier works on site taking place. As the construction works on site continue the condition allows for quieter types of work e.g. internal work to take place outwith these times although Environmental Health will be able to take action should such works cause a nuisance. Furthermore any breaches of working hours can be investigated by Planning and Economic Development who can discuss this project with the applicant's and their agents within the Council.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the condition indicated on the enclosed sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, it will not require to be referred to Council as there would be no significant breach of Council policy.

Alan Neish
Head of Planning and Economic Development

3 August 2011

FMF
FV/HM

LIST OF BACKGROUND PAPERS

1. Application Forms, Plans and Supporting Information.
2. Statutory Notices/Certificates.
3. Consultation Responses.
4. Letters of objection
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.

Anyone wishing to inspect the above papers please contact Fiona Finlay on 01563 576798.

Implementation Officer: Hugh Melvin

East Ayrshire Council

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 11/0413/PP

Location	Darvel Primary School Campbell Street East Darvel East Ayrshire
Nature of Proposal:	Alteration to condition 10 to extend Saturday working hours to 08:00 hours - 17:00 hours and to allow Sunday working hours from 10:00 hours to 16:00 hours by prior arrangement and agreement with planning authority for the days requested.
Name and Address of Applicant:	Executive Director Of Educational And Social Services East Ayrshire Council Headquarters London Road Kilmarnock East Ayrshire KA3 7BU
Name and Address of Agent	EAC Asset Improvement Lugar Offices Rigg Road Cumnock East Ayrshire KA18 3JQ

Officer's Ref: Fiona Finlay
(01563) 576798

The above application for planning permission should be granted subject to the following conditions:-

1. Condition 10 of planning permission 10/0688/PP is amended to read as follows:-



“No demolition or external construction work, site clearance or preparation works shall take place before 08:00 hours and after 18:00 hours on Mondays to Fridays and before 08:00 hours and after 17:00 hours on Saturdays, nor at any time on Sundays.

REASON: In the interests of residential amenity.

REASON FOR THE DECISION

The proposed development does not conflict with the policies of the development plan and there are no material considerations of sufficient weight to merit refusal of the application.



<p>Title/Location</p>	<p>Darvel Primary School Darvel Application No. 11/0413/PP</p>	<p>East Ayrshire Council Department of Neighbourhood Services Planning & Economic Development Service The Johnnie Walker Bond 15 Strand Street Kilmarnock KA1 1HU Tel: (01563) 576790 Fax: (01563) 554592 E-Mail : Planning@east-ayrshire.gov.uk Com Date: 12/08/2011</p>	
<p>Key</p>	 <p>Application Site</p>		