

## RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING & DEVELOPMENT COMMITTEE

Agenda Item No.

meeting date: THURSDAY, 13 SEPTEMBER 2012  
 title: EXTENSION TO THE DELEGATION SCHEME IN RELATION TO DETERMINATION OF PLANNING APPLICATIONS AND MINOR CHANGES TO DEVELOPMENT MANAGEMENT PROTOCOL  
 submitted by: DIRECTOR OF COMMUNITY SERVICES  
 principal author: JOHN MACHOLC – HEAD OF PLANNING SERVICES

### 1 PURPOSE

- 1.1 To request minor changes to the scheme of delegation in relation to the determination of planning applications and to clarify issues regarding.
- 1.2 Members may be aware that there have been some recent revisions to the delegation scheme with the most recent report on the 25 May 2012 which clarified issues regarding referral requests and minor changes to Section 106 requirements.
- 1.3 Relevance to the Council's ambitions and priorities:
- Council Ambitions - }
  - Community Objectives - } To be a well-managed Council providing efficient services based on identified customer need.
  - Corporate Priorities - }
  - Other Considerations - }

### 2 BACKGROUND

- 2.1 It is evident that the Government has continued to express concerns in relation to the possible delay that the present system has caused and its impact on driving the economy. Part of the impact has been the delay in the determination of planning applications. It is important to explore ways of a enabling quicker decisions without significant harm to the planning process.
- 2.2 It remains important to explore whether or not it is possible to increase the level of delegation on planning applications so that more applications could be determined without the need to go to a Planning and Development Committee. It is clear that one issue relates to the need to take all 'major' applications to Planning and Development Committee. In some instances such as agricultural buildings or employment buildings it is often the case that they are not likely to be involve any issues that would need to be considered by Committee and are relatively straightforward. I am of the opinion that all commercial and agricultural developments should be delegated to the Director of Community Services. The referral request and the 3 or more objections would still be subject to these proposals.

- 2.3 I also consider that decision whether to take minor proposals that are recommended for refusal to Planning and Committee should be commercial schemes that have employment implications given to the Director of Community Services. Currently the scheme suggests that any refusal that may have significant employment issues should be discussed with the Chairman of the Planning and Development. In practice this is not happening and in many instances the applications are taken to Committee by the officer. I consider that many of these involve minor employment issues and need not to be determined by Committee.
- 2.4 Planning Advisory Service previously identified how some planning authorities are achieving better planning outcomes by improving the effectiveness and efficiency of the way they make planning decisions by delegation. The common factors characterising this good practice were identified as:
- Maximising the number of delegated planning decisions – delegating higher than 90% of planning decisions, which gives planning committees more time to focus on complex and controversial applications.
- 2.5 In relation to the Development Management Protocol and as a result of the considerable amount of correspondence arising in part from major planning applications, it has been decided to no longer acknowledge correspondence in order to allow administrative staff to focus on other work and in particular the processing of planning applications. It is important to note that all correspondence is recorded in an electronic post book and this will continue.

### 3 ISSUES

- 3.1 In assessing the revisions proposed I do not consider this would have a significant detrimental impact on the planning process and key applications would still need to be determined by the Planning and Development Committee. I envisage that the proposed changes will speed up the determination of planning applications and in turn help to facilitate economic growth. As stated previously the “Referral request” procedure would still be possible on such applications.
- 3.2 Although I would not anticipate any significant increase in the level of delegation resulting from the changes it would the Council in progressing towards the national target of between 90%-95%. This change will bring us more in line with similar Councils and I hope will also free up officer time and member time to be available on key applications with the fact that less applications would need to go to Planning and Development Committee and also assist in a speedier determination which in turn may deliver a more prosperous economy.

### 4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications:
- Resources – any changes could be met with existing staffing and it may also free up some member and officer time.
  - Technical, Environmental and Legal – No implications identified.

- Political – No implications identified.
- Reputation – No implications identified.
- Equality & Diversity – No implications identified.

## **5 RECOMMENDED THAT COMMITTEE**

5.1 Endorse the minor alterations to the text of the report which gives further clarification as to the extent of the delegation scheme and approve the revised changes to the delegation scheme to include:

- Commercial and Agricultural applications in excess of 1000m<sup>2</sup> floorspace

5.2 Endorse the changes in Development Management Protocol and no longer acknowledge correspondence.

JOHN MACHOLC  
HEAD OF PLANNING SERVICES

JOHN HEAP  
DIRECTOR OF COMMUNITY SERVICES

## **BACKGROUND PAPERS**

1 Current Delegation Scheme.

For further information please ask for John Macholc, extension 4502.

P&D/JM/EL/130912

## EXISTING DELEGATION SCHEME UPDATED 24 MAY 2012

- RIBBLE VALLEY BOROUGH COUNCIL
- PLANNING AND DEVELOPMENT COMMITTEE
- SCHEME OF DELEGATION OF DEVELOPMENT CONTROL AND COUNTRYSIDE MATTERS

This note is designed to clarify when applications received by the Council in relation to planning, countryside and some other related matters will be decided by the Planning and Development Committee and when those decisions will be delegated to officers of the Council. Many of the delegated items date from the inception of Ribble Valley Borough Council. Where dates are known for later additions they are given. Details of planning decisions made under delegated powers will be reported to Committee for information.

From time to time legislative changes may rename or make minor amendments to some of the listed delegated items. Whilst the scheme of delegation will be amended to reflect these changes, there may be periods where the clear intention must be respected even if precise wording or legislative reference has changed.

These powers are delegated to the Director of Community Services.

1. GENERAL DEVELOPMENT CONTROL
  - (a) Determination as to whether applications are county matters or district matters under Schedule 1 of the Town and Country Planning Act 1990.
  - (b) The statutory or the discretionary need to advertise various types of applications.
  - (c) What statutory or other consultations/notifications are required?
2. APPLICATIONS FOR A CERTIFICATE OF LAWFULNESS AND DISCHARGE OF CONDITIONS
  - 2.1 There are two types of application for a Lawful Development Certificate.

These are:

    - (a) Determination of applications for a Certificate of Lawfulness of existing use or development under Section 191 of the Town and Country Planning Act 1990.
    - (b) Determination of applications for a Certificate of Lawfulness of proposed use or development under Section 192 of the Town and Country Planning Act 1990.
  - 2.2 Applications for the discharge of conditions placed on planning approvals.

2.3 Since all these types of application relate to issues of fact, both refusals and approvals are delegated to the Director of Community Services. **These applications remain delegated even if representations are received.**

### 3. DETERMINATION OF PLANNING APPLICATIONS

3.1 Applications submitted on behalf of family members of councillors and officers should be placed before the Planning and Development Committee even if they fall within the below categories.

#### Approvals

3.2 The following types of planning application are delegated to the Director of Community Services providing fewer than three objections from separate addresses are received by the date of consultation closure. The total of these includes statutory consultees.

- Applications for up to 3 new dwellings (14/1/12)
- Substitute dwellings on existing plots within an existing housing estate
- Applications for new access points wither on classified or unclassified roads.
- Applications for a change of use (26/5/94)
- Extensions or ancillary buildings within the curtilage of industrial or commercial buildings subject to the alterations not constituting a major proposals, ie it should be no more than 1000 square metres floor space (this includes temporary buildings). (6/3/03 then 18/12/08)
- New build commercial premises of less than 1000 square metres floor space (13/9/12).
- Proposals for new shop fronts on existing shops
- Applications for consent to display advertisements
- Applications for agricultural buildings of up 1000 square metres floor space (11/4/90 then 18/12/08)
- Proposals to reinforce existing overhead power lines.
- Applications for listed building consent
- Applications for conservation area consent (11/4/90 and 30/04/09)
- All applications about which the observations of the Council are requested (23/4/98 and 18/12/08)
- Renewals of previously approved schemes (23/4/98)
- Renewals of temporary consents (15/6/99)
- Applications for temporary buildings (15/6/99)
- Reserved matters applications
- Modification of conditions and minor alterations to Section 106 Agreements. (24/05/12)
- Minor material amendments (14/1/10)
- Non material amendments (14/11/10)
- Ancillary development within the curtilage of a dwelling house (for example, domestic garages, conservatories, porches, greenhouses and means of enclosure etc)
- Extensions to dwellings
- Revocation requests relating to Section 106 Agreements (24/05/12)

## Refusals

3.3 Planning applications falling into these categories can be refused under delegated powers without prior reference to the Chairman (or if unavailable the Vice Chairman) of Planning and Development Committee.

- Household extensions and curtilage buildings
- Listed buildings
- New housing clearly contrary to Policy (To be interpreted by Case Officer in conjunction with Head of Planning Services 24/05/12)
- Applications raising design issues
- Advertisement proposals
- Buildings in the open countryside
- Change of uses that do not generate significant employment issues
- Reserved matters

Such delegated refusals can be issued with registered objectors.

Planning applications falling into the three categories below will normally be discussed with the Chairman (or if unavailable the Vice Chairman) or Planning and Development Committee to decide whether they can be refused under delegated powers or should be referred to Committee.

- Developments that may have significant employment issues
- Modification of conditions.
- Applications that may resolve bad neighbour developments

## Section 106 Agreements

3.4 Negotiations leading to the satisfactory completion of Section 106 Agreements will be delegated to officers unless Committee have formally requested further involvement at the time of the original decision.

## 4. PRIOR NOTIFICATIONS

4.1 Proposals for agricultural buildings, demolition work and telecommunications apparatus within certain size and locational thresholds may benefit from permitted development rights. The developers are however required to serve a prior notification upon the Council.

This gives the local authority the opportunity to assess whether planning consent is required and also to seek technical alterations if appropriate. The Council has a limited time to respond; but as failure to issue a decision results in an automatic approval these items need to be delegated regardless of the decision reached.

## 5. ENFORCEMENT

- 5.1 In all cases where there is a breach of planning control, the Director of Community Services is authorised to take the necessary action to regularise the situation, including the service of notice on untidy sites.
6. BUILDING PRESERVATION NOTICES
- 6.1 In the case of an unlisted building that is of Special Architectural or Historic interest and is in danger of demolition or alteration, the Director of Community Services is authorised to serve a building preservation notice. (This is sometimes known as spot listing).
7. TREE PRESERVATION AND COUNTRYSIDE
- (a) The Director of Community Services is authorised to make provisional tree preservation orders where necessary because of the immediate threat to tree involved.
  - (b) Decisions on applications for work on protected trees.
  - (c) Confirmation of tree preservation orders when no objections have been received.
  - (d) Decisions on notifications under the Hedgerow Regulations.
  - (e) Confirmation of public rights of way diversion orders.
  - (f) Responses to Lancashire County Council on the consultation stage of footpath diversion orders in liaison with Committee Chairman (or if unavailable the Vice Chairman) and ward member(s).
8. OTHER MATTERS
- 8.1 Decisions on whether an application is needed for consent to demolish a building.
- 8.2 Decisions on whether an environmental impact assessment is required for any specific proposal and determination of scoping and screening requests.
- 8.3 The attachment of appropriate conditions to approvals following overturns of officer refusal recommendations to Committee (8/3/01).
- 8.4 Decisions whether or not to use consultants to prepare and present an appeal case is delegated but only following discussions with the Chairman (or if unavailable the Vice Chairman) of the Planning and Development Committee,
- 8.5 Delegation to Director of Community Services or Head of Planning Services to decide to take applications to Planning and Development Committee even if they fall within the Delegated procedure if it is deemed appropriate.
9. COUNCILLORS POWER TO REQUIRE A PLANNING APPLICATION TO BE DETERMINED BY COMMITTEE
- 9.1 The ward councillor will have the right to require that any application or revocation request appearing on the weekly list to be presented to Planning and Development Committee for decision providing that such an instruction is received by the Director of Community Services in writing within 14 days of the 'received week ending' of the relevant list.

## PROPOSED DELEGATION SCHEME 13 SEPTEMBER 2012

- RIBBLE VALLEY BOROUGH COUNCIL
- PLANNING AND DEVELOPMENT COMMITTEE
- SCHEME OF DELEGATION OF DEVELOPMENT CONTROL AND COUNTRYSIDE MATTERS
- LAST REVIEWED 24 MAY 2012

This note is designed to clarify when applications received by the Council in relation to planning, countryside and some other related matters will be decided by the Planning and Development Committee and when those decisions will be delegated to officers of the Council. Many of the delegated items date from the inception of Ribble Valley Borough Council. Where dates are known for later additions they are given. Details of planning decisions made under delegated powers will be reported to Committee for information.

From time to time legislative changes may rename or make minor amendments to some of the listed delegated items. Whilst the scheme of delegation will be amended to reflect these changes, there may be periods where the clear intention must be respected even if precise wording or legislative reference has changed.

These powers are delegated to the Director of Community Services.

1. GENERAL DEVELOPMENT CONTROL
  - (a) Determination as to whether applications are county matters or district matters under Schedule 1 of the Town and Country Planning Act 1990.
  - (b) The statutory or the discretionary need to advertise various types of applications.
  - (c) What statutory or other consultations/notifications are required?
2. APPLICATIONS FOR A CERTIFICATE OF LAWFULNESS AND DISCHARGE OF CONDITIONS
  - 2.1 There are two types of application for a Lawful Development Certificate.

These are:

    - (a) Determination of applications for a Certificate of Lawfulness of existing use or development under Section 191 of the Town and Country Planning Act 1990.
    - (b) Determination of applications for a Certificate of Lawfulness of proposed use or development under Section 192 of the Town and Country Planning Act 1990.
  - 2.2 Applications for the discharge of conditions placed on planning approvals.

2.3 Since all these types of application relate to issues of fact, both refusals and approvals are delegated to the Director of Community Services. **These applications remain delegated even if representations are received.**

### 3. DETERMINATION OF PLANNING APPLICATIONS

3.1 Applications submitted on behalf of family members of councillors and officers should be placed before the Planning and Development Committee even if they fall within the below categories.

#### Approvals

3.2 The following types of planning application are delegated to the Director of Community Services providing fewer than three objections from separate addresses are received by the date of consultation closure. The total of these includes statutory consultees.

- Applications for up to 3 new dwellings (14/1/12)
- Substitute dwellings on existing plots within an existing housing estate
- Applications for new access points wither on classified or unclassified roads.
- Applications for a change of use (26/5/94)
- Extensions or ancillary buildings within the curtilage of industrial or commercial buildings subject to the alterations not constituting a major proposals, ie it should be no more than 1000 square metres floor space (this includes temporary buildings). (6/3/03 then 18/12/08)
- All new build commercial premises irrespective of size
- Proposals for new shop fronts on existing shops
- Applications for consent to display advertisements
- Applications for agricultural buildings irrespective of size
- Proposals to reinforce existing overhead power lines.
- Applications for listed building consent
- Applications for conservation area consent (11/4/90 and 30/04/09)
- All applications about which the observations of the Council are requested (23/4/98 and 18/12/08)
- Renewals of previously approved schemes (23/4/98)
- Renewals of temporary consents (15/6/99)
- Applications for temporary buildings (15/6/99)
- Reserved matters applications
- Modification of conditions and minor alterations to Section 106 Agreements. (24/05/12)
- Minor material amendments (14/1/10)
- Non material amendments (14/11/10)
- Ancillary development within the curtilage of a dwelling house (for example, domestic garages, conservatories, porches, greenhouses and means of enclosure etc)
- Extensions to dwellings
- Revocation requests relating to Section 106 Agreements (24/05/12)

## Refusals

- 3.3 Planning applications falling into these categories can be refused under delegated powers without prior reference to the Chairman (or if unavailable the Vice Chairman) of Planning and Development Committee.
- Household extensions and curtilage buildings
  - Listed buildings
  - New housing clearly contrary to Policy (To be interpreted by Case Officer in conjunction with Head of Planning Services 24/05/12)
  - Applications raising design issues
  - Advertisement proposals
  - Buildings in the open countryside
  - Change of uses that do not generate significant employment issues
  - Reserved matters

Such delegated refusals can be issued with registered objectors.

## Section 106 Agreements

- 3.4 Negotiations leading to the satisfactory completion of Section 106 Agreements will be delegated to officers unless Committee have formally requested further involvement at the time of the original decision.

## 4. PRIOR NOTIFICATIONS

- 4.1 Proposals for agricultural buildings, demolition work and telecommunications apparatus within certain size and locational thresholds may benefit from permitted development rights. The developers are however required to serve a prior notification upon the Council.

This gives the local authority the opportunity to assess whether planning consent is required and also to seek technical alterations if appropriate. The Council has a limited time to respond; but as failure to issue a decision results in an automatic approval these items need to be delegated regardless of the decision reached.

## 5. ENFORCEMENT

- 5.1 In all cases where there is a breach of planning control, the Director of Community Services is authorised to take the necessary action to regularise the situation, including the service of notice on untidy sites.

## 6. BUILDING PRESERVATION NOTICES

- 6.1 In the case of an unlisted building that is of Special Architectural or Historic interest and is in danger of demolition or alteration, the Director of Community Services is authorised to serve a building preservation notice. (This is sometimes known as spot listing).

## 7. TREE PRESERVATION AND COUNTRYSIDE

- (a) The Director of Community Services is authorised to make provisional tree preservation orders where necessary because of the immediate threat to tree involved.
- (b) Decisions on applications for work on protected trees.
- (c) Confirmation of tree preservation orders when no objections have been received.
- (d) Decisions on notifications under the Hedgerow Regulations.
- (e) Confirmation of public rights of way diversion orders.
- (f) Responses to Lancashire County Council on the consultation stage of footpath diversion orders in liaison with Committee Chairman (or if unavailable the Vice Chairman) and ward member(s).

## 8. OTHER MATTERS

- 8.1 Decisions on whether an application is needed for consent to demolish a building.
- 8.2 Decisions on whether an environmental impact assessment is required for any specific proposal and determination of scoping and screening requests.
- 8.3 The attachment of appropriate conditions to approvals following overturns of officer refusal recommendations to Committee (8/3/01).
- 8.4 Decisions whether or not to use consultants to prepare and present an appeal case is delegated but only following discussions with the Chairman (or if unavailable the Vice Chairman) of the Planning and Development Committee,
- 8.5 Delegation to Director of Community Services or Head of Planning Services to decide to take applications to Planning and Development Committee even if they fall within the Delegated procedure if it is deemed appropriate.

## 9. COUNCILLORS POWER TO REQUIRE A PLANNING APPLICATION TO BE DETERMINED BY COMMITTEE

- 9.1 The ward councillor will have the right to require that any application or revocation request appearing on the weekly list to be presented to Planning and Development Committee for decision providing that such an instruction is received by the Director of Community Services in writing within 14 days of the 'received week ending' of the relevant list.