

**RIBBLE VALLEY BOROUGH COUNCIL  
REPORT TO PLANNING AND DEVELOPMENT COMMITTEE**

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Agenda Item No.

meeting date: 14 FEBRUARY 2013  
title: PROTOCOL ON NON DETERMINATION APPEALS  
submitted by: DIRECTOR OF COMMUNITY SERVICES  
principal author: JOHN MACHOLC, HEAD OF PLANNING SERVICES

**1 PURPOSE**

1.1 To request Members authorisation to incorporate the reasons for refusal associated with non determination appeals in the current delegation scheme as approved under the 6 December 2012 Planning and Development Committee meeting.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – }  
• Corporate Priorities – } To be a well managed Council providing efficient services based on identified customer need.  
• Other Considerations – }

**2 BACKGROUND**

2.1 Members will be aware that in recent months the Council has received two non determination appeals relating to significant development proposals within the borough. For Members' information, these relate to the proposed housing scheme at Mitton Road, Whalley (Ref: 3/2012/637) and the development proposal at Barrow which relates to 504 houses and associated infrastructure.

2.2 When an appeal has been received for non determination, there is often a very strict deadline in carrying out the appeal procedures, which include formulating a Statement of Case which would be the Council's reasons for refusal, as well as arranging the date of any inquiry. It has been proven difficult to take reports to Planning and Development Committee with suggested reasons for refusal and to operate efficiently within that timescale. It is often the case that it is not even possible to appoint or request Counsel until the reasons for refusal and the Statement of Case has been decided. This inevitably leads to a difficult arrangement and it may not be impossible to obtain Counsel's advice on the issues before a formal Statement of Case needs to be submitted to the Planning Inspectorate. This may weaken the Council's case and therefore it is important to ensure that the best available time is used to ensure the best case is put forward.

**3 ISSUES**

3.1 The strict deadlines governed by the Planning Inspectorate may mean that in certain circumstances it would not be possible to take a decision item report to Planning and Development Committee requesting authorisation to defend an appeal based on certain reasons. This is often due to the timetable of Committee meetings as well as the

resources that would need to be prepared in presenting a report requesting Committee's decision.

- 3.2 In order to utilise resources appropriately, I consider that the reasons for refusal should be delegated to the Director of Community Services and the Head of Planning Services and the delegation scheme in relation to planning applications be altered to make reference to non determination appeals.
- 3.3 I recognise it is important that Members are satisfied with the reasons for refusal and consider that this delegation should be based on confirmation from the Chairman and Vice Chairman. I also consider that an information report be taken to an appropriate Planning and Development Committee meeting.
- 3.4 Where possible, it is my intention to still take reports to Planning and Development Committee requesting Committee's approval and so it is important to emphasise that if Committee accept the revised delegation scheme, this would be seen as an option as a last resort having regard to timescale and resource implications.

#### 4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – As a result this may release resources from existing officers from preparing a lengthy report and free up time to focus on the key issues of such cases.
- Technical, Environmental and Legal – No implications identified.
- Political – No implications identified but it is important to ensure that in such circumstances Members are kept informed of and reasons.
- Reputation – No implications identified.
- Equality & Diversity – No implications identified.

#### 5 RECOMMENDED THAT COMMITTEE

5.1 Approve the revised changes to the delegation scheme to include authorisation to determine the reasons for refusal for non determination appeals.

JOHN MACHOLC  
HEAD OF PLANNING SERVICES

JOHN HEAP  
DIRECTOR OF COMMUNITY SERVICES

#### BACKGROUND PAPERS

Current delegation scheme 6 December 2012.

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

REF:JM/EL/140213/P&D