

RIBBLE VALLEY BOROUGH COUNCIL

REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

Agenda Item No. 6

meeting date: THURSDAY, 4 OCTOBER 2018
title: SCHEME OF DELEGATION OF DEVELOPMENT MANAGEMENT AND COUNTRYSIDE MATTERS
submitted by: NICOLA HOPKINS – DIRECTOR OF ECONOMIC DEVELOPMENT & PLANNING
principal author: NICOLA HOPKINS – DIRECTOR OF ECONOMIC DEVELOPMENT & PLANNING

1. PURPOSE

- 1.1 To consider a full comprehensive review of the Council's Scheme of Delegation in relation to Development Management and Countryside Matters to simplify the process and to ensure that Members of the Planning and Development Committee focus their attention on key applications, which justify their attention.
- 1.2 Relevance to the Council's ambitions and priorities:
- Community Objectives – To encourage economic development and sustain a strong and prosperous Ribble Valley.
 - Other Considerations – To ensure the Council is a well-managed and efficient authority.

2. BACKGROUND

- 2.1 Ribble Valley Borough Council's Constitution will need to be amended at the 16 October Council meeting to include the new Director of Economic Development and Planning. The Council's Constitution includes the Scheme of Delegation of Development Management and Countryside Matters (Part 3(2) of the Constitution).
- 2.2 The Council reviews its Constitution annually and the current Scheme of Delegation was last amended in April 2015. The current scheme delegates powers to the Director of Community Services; this will need to be amended to the Director of Economic Development and Planning.
- 2.3 Over the past few years minor amendments have been made to the scheme as legislation changed and/or new application types were introduced. The most recent amendments were made in July 2013, November 2013 and April 2015. It has, however, been several years since the scheme was comprehensively reviewed. In the interests of making better use of Planning and Development Committee and, therefore, Members' time, improving efficiency, reducing the costs of the development management service and contributing to improved performance, the scheme has been reviewed.

3. PROPOSED CHANGES

- 3.1 Whilst granting delegated authority to the Director of Economic Development and Planning the following further changes to the scheme are proposed:
- 3.1.1 Clarifying the types of applications which are based on fact (certificate of lawfulness applications, discharge of condition applications, screening opinions and scoping opinions) which will, in all cases, be delegated to the Director of Economic Development and Planning.

- 3.1.2 Householder applications were removed from the Council's call in procedure at Planning and Development Committee in August 2018. Given that Committee's time is best utilised assessing key applications and ones that may have a strategic interest it is proposed that householder applications, including larger home extensions introduced as permitted development in 2012, will always be delegated to the Director of Economic Development and Planning.
- 3.1.3 The amended scheme clarifies which applications will always be placed before Committee. This includes applications made by elected Members and specific officers of the Council including family members; applications made by Ribble Valley Council; applications which require referral to the Secretary of State; and major housing applications recommended for approval.
- 3.1.4 The amended scheme includes the new types of application which have been introduced, such as permission in principle, and deletes application types which no longer exist, such as applications for conservation area consent.
- 3.1.5 It is proposed to delegate all refusals to the Director of Economic Development and Planning unless it is considered that determination of the application by Planning and Development Committee is appropriate. Such applications will be contrary to planning policy and/or material considerations and as such consideration of these applications will not always represent the best use of Committee's time. Where there is significant public interest however the Director or Economic Development and Planning and/ or the Head of Planning may consider it appropriate for the application to be considered by Committee. Such applications, apart from those specifically excluded from the call in procedure, could also be called in if Members consider it appropriate.
- 3.1.6 Under planning legislation, certain developments are considered permitted development. However, for certain developments applicants are required to notify the Council regarding the proposals in order to determine whether prior approval is required (this includes demolition, some agricultural development and certain changes of use). This procedure will not result in planning permission it will instead determine whether prior approval is or is not required. The Local Planning Authority has a limited time to respond; but as failure to issue a decision could result in an automatic approval it is proposed that all decisions in respect of these types of applications are delegated to the Director of Economic Development and Planning and are not subject to the call in procedure.
- 3.1.7 The updated scheme specifically lists the types of action which can be taken in respect of enforcement and heritage assets.
- 3.1.8 The updated scheme includes authority for the Director of Economic Development and Planning to make decisions on applications for works to trees in Conservation Areas and complaints received in relation to High Hedge legislation.
- 3.1.9 Section 73 of the Town and Country Planning Act 1990 enables an applicant to apply to develop land without compliance with conditions attached to an extant previous planning permission. These are 'minor material amendments' to the approved scheme which do not change the principle of the development. Given that the principle of the development will have already been established and the changes are only minor it is proposed that such decisions are delegated to the Director of Economic Development and

Planning and Head of Planning in consultation with the Chairman and Vice Chairman of the Planning and Development Committee. These types of applications would still, however, be included within the call-in procedure.

3.1.10 Section 96A of the Town and Country Planning Act enables an applicant to apply for a non-material amendment to an approved scheme. Such amendments are minor in nature and are not applications for planning permission. The Local Planning Authority has 28 days in which to make a decision. Given the limited timescale and the minor nature of such applications all decisions in respect of these types of applications are delegated to the Director of Economic Development and Planning and are not subject to the call in procedure.

4. ISSUES

4.1 It has been acknowledged, nationally, the Local Planning Authorities can achieve better planning outcomes by improving the effectiveness and efficiency of the way they make planning decisions by delegation.

4.2 National Government considers that it is in the public interest for local planning authorities to have effective delegation arrangements in place to ensure that decisions on planning applications that raise no significant planning issues are made quickly and that resources are appropriately concentrated on the applications of greatest significance to the local area. The proposed changes seek to ensure the scheme of delegation accords with the guidance, which will in turn help to facilitate economic growth, whilst enabling the Planning and Development Committee to concentrate on the significant applications.

5. RISK ASSESSMENT

5.1 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 – None.
- Political – None.
- Reputation – None.
- Equality & Diversity – None.

6. **RECOMMENDED THAT COMMITTEE**

6.1 Approve the revised changes to the scheme of delegation as set out above to be included within the proposed changes to the Constitution at Council on 16th October.

NICOLA HOPKINS
DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING

BACKGROUND PAPERS: DELEGATION SCHEME OCTOBER 2018

REF: NH/PLANNING/041018

DELEGATION SCHEME OCTOBER 2018



Ribble Valley
Borough Council

www.ribblevalley.gov.uk

- RIBBLE VALLEY BOROUGH COUNCIL
- PLANNING AND DEVELOPMENT COMMITTEE
- SCHEME OF DELEGATION OF DEVELOPMENT MANAGEMENT AND COUNTRYSIDE MATTERS
- LAST REVIEWED 4th October 2018

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.

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 Economic Development and Planning

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 DELEGATED TO THE DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING

- 2.1 Since the following types of applications relate to issues of fact, both refusals and approvals are delegated to the Director of Economic Development and Planning. **These types of applications remain delegated even if representations are received and these types of applications are not subject to the call in procedure.**

- Determination of applications for a Certificate of Lawfulness of existing use or development under Section 191 of the Town and Country Planning Act 1990.
- Determination of applications for a Certificate of Lawfulness of proposed use or development under Section 192 of the Town and Country Planning Act 1990.
- Determination of applications for a Certificates of Lawfulness of proposed works to listed buildings under Section 26H of the Planning (Listed Buildings and Conservation Areas) Act 1990
- Applications to discharge conditions attached to approvals.
- Request for a screening or scoping opinion in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017

2.2 One of the roles of the Planning and Development Committee is to consider development in the public interest, which includes major and complex proposals, which have the potential to have wide impact on the Borough. The following types of application do not, generally, have a wide impact and it would not be in the public interest to consider these applications at Committee. **These types of applications remain delegated even if representations are received and these types of applications are not subject to the call in procedure.**

- Householder applications for planning permission for works or extensions to a dwelling.
- Notification of a proposed larger home extension in accordance with Schedule 2, part 1 (Class A) of The Town and Country Planning (General Permitted Development) (England) Order 2015

3. DETERMINATION OF APPLICATIONS SUBMITTED TO THE LOCAL PLANNING AUTHORITY

3.1 Any application made by an elected Member or senior officer of the Council, or a close relation of either of such persons shall be placed before Planning and Development Committee where representations objecting to the application have been received (delegation is still permitted if the application is refused). For these purposes a close relation is defined as a spouse, partner, sibling, parent or offspring and a senior officer is deemed to be Head of Service and above in all services except the Economic Development and Planning Directorate where it includes all officers.

3.2 Any application made by or on behalf of Ribble Valley Borough Council shall be placed before Planning and Development Committee.

3.3 Any application that falls within the application criteria to consult the Secretary of State in accordance with the Town and Country Planning (Consultation) (England) Direction 2009 shall be placed before Planning and Development Committee.

3.4 Any major planning application for new housing development, which is recommended for approval, shall be place before Planning and Development Committee.

Approvals

3.3 The following types of planning application are delegated to the Director of Economic Development and Planning providing fewer than 10 objections from separate addresses

are received by the date of consultation closure. The total of these includes statutory consultees.

- Outline and full applications for up to 9 new dwellings Substitution of house types
- Applications for new vehicular access points
- Full applications for a change of use
- All new build commercial premises including agricultural developments irrespective of the size.
- Proposals for new shop fronts on existing shops.
- Applications for advertisement consent.
- Applications for agricultural buildings irrespective of size.
- Proposals to reinforce existing overhead power lines.
- Applications for listed building consent.
- All applications about which the observations of the Council are requested
- Applications for temporary consent.
- Reserved matters applications.
- Modification and discharge of planning obligations in accordance with Section 106A of the Town and Country Planning Act 1990
- Applications on Council owned land (not made by or on behalf of the Council).
- Hazardous substance consent
- Permission in Principle.
- Applications for technical details consent following the grant of permission in principle
- Applications for development already carried out (retrospective applications).

Refusals

- 3.4 All applications submitted to the Local Planning Authority can be refused under delegated powers without prior reference to the Chairman of Planning and Development Committee unless the Director of Economic Development and Planning and/ or the Head of Planning consider that determination of the application by Planning and Development Committee is appropriate.

Section 106 Agreements

- 3.5 Negotiations leading to the satisfactory completion of Section 106 Agreements will be delegated to the case officer and the Head of Planning unless the Planning and Development Committee have formally requested further involvement at the time of the original resolution.

Non determination appeals

- 3.6 Delegated to the Head of Planning Services and Director of Economic Development and Planning, in conjunction with the Chairman and Vice Chairman of the Planning and Development Committee, to determine the appropriate reasons for refusal in any non-determination appeals if it is not possible to take a full report to Committee due to the need to meet the necessary appeal deadlines.

4. PRIOR NOTIFICATIONS

- 4.1 Under planning legislation, certain developments are considered permitted development. However, for certain developments applicants are required to notify the council regarding the proposals in order to determine whether prior approval is required (this includes demolition, some agricultural development and certain changes of use). This procedure will not result in planning permission it will instead determine whether prior approval is or is not required. The Local Planning Authority has a limited time to respond; but as failure to issue a decision could result in an automatic approval all decisions in respect of these types of applications are delegated to the Director of Economic Development and Planning. **These types of applications remain delegated even if representations are received and these types of applications are not subject to the call in procedure.**
- 4.2 The determination of Local Development Orders applications at BAe Samlesbury are delegated to the Director of Economic Development and Planning. **These types of applications remain delegated even if representations are received and these types of applications are not subject to the call in procedure.**

5 HERITAGE PARTNERSHIP AGREEMENTS

- 5.1 Proposals for Consented Work applications, Certificate of Lawfulness of Proposed Works and amendments and additions to any Heritage Partnership Agreements are delegated to the Director of Economic Development and Planning. **These types of applications remain delegated even if representations are received and these types of applications are not subject to the call in procedure.**

6. ENFORCEMENT

- 6.1 In all cases where there is a breach of planning control, the Director of Economic Development and Planning is authorised to take the necessary action to regularise the situation, including the service of:
- A notice on untidy sites (Section 215 Notice),
 - An Enforcement Notice,
 - A breach of condition notice
 - A temporary stop notice
 - A planning contravention notice

7. LISTED BUILDINGS AND CONSERVATION AREAS

- 7.1 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 Economic Development and Planning is authorised to serve a building preservation notice. (This is sometimes known as spot listing).
- 7.2 In respect of Listed Buildings authorise the Director of Economic Development and Planning to serve/ apply for:
- An Urgent Works Notice
 - A Repairs Notice
 - An injunction in relation to a listed building.

8. TREE PRESERVATION AND COUNTRYSIDE

8.1 The Director of Economic Development and Planning is authorised to make:

- a) provisional tree preservation orders where necessary because of the immediate threat to tree involved.
- b) Decisions on applications for work on protected trees.
- c) Decisions on applications for works to trees in Conservation Areas
- d) Decisions on complaints received in relation to High Hedge legislation.
- e) Confirmation of tree preservation orders when no objections have been received.
- f) Decisions on notifications under the Hedgerow Regulations.
- g) Confirmation of public rights of way diversion orders.
- h) 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).

9. AMENDMENTS TO A PLANNING CONSENT

9.1 Section 73 of the Town and Country Planning Act 1990 enables an applicant to apply to develop land without compliance with conditions attached to an extant previous planning permission. Under this section a local planning authority may amend or remove conditions but may not amend any other part of the permission. Applications submitted under Section 73 are 'minor material amendments' to the approved scheme whose scale and nature result in a development which is not substantially different from the one which has been approved. As applications submitted under Section 73 do not change the principle of the development, decisions are delegated to the Director of Economic Development and Planning and Head of Planning in consultation with the Chairman and Vice Chairman of the Planning and Development Committee. **These types of applications remain delegated even if representations are received.**

9.2 Section 96A of the Town and Country Planning Act enables an applicant to apply for a non-material amendment to an approved scheme. Such amendments are minor in nature and are not applications for planning permission. The Local Planning Authority has 28 days in which to make a decision. Given the limited timescale and the minor nature of such applications all decisions in respect of these types of applications are delegated to the Director of Economic Development and Planning. **These types of applications remain delegated even if representations are received and these types of applications are not subject to the call in procedure.**

10. OTHER MATTERS

The following matters are delegated to the Director of Economic Development and Planning:

- 10.1 The attachment of appropriate conditions to approvals following overturns of officer refusal recommendations to Committee.
- 10.2 Decisions whether or not to use consultants to prepare and present an appeal case following discussions with the Chairman (or if unavailable the Vice Chairman) of the Planning and Development Committee.

- 10.3 Decision to take applications to Planning and Development Committee even if they fall within the delegated procedure, if it is deemed appropriate.
- 10.4 Determine applications as finally disposed of
- 11. COUNCILLORS POWER TO REQUIRE A PLANNING APPLICATION TO BE DETERMINED BY COMMITTEE
- 11.1 The ward councillor will have the right to require that any application or revocation request within their ward appearing on the weekly list (apart from the types of applications listed above outside of the call in procedure) to be presented to Planning and Development Committee for decision, providing that such an instruction is received by the Director of Economic Development and Planning in writing within 14 days of the 'received week ending' of the relevant list.