

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

Agenda Item No.

meeting date: 24 MAY 2012  
 title: EXTENSION TO THE DELEGATION SCHEME IN RELATION TO DETERMINATION  
 OF PLANNING APPLICATIONS  
 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 most recent revisions to the delegation scheme was on the 12 January 2012 with the main change to modify the delegation scheme to allow approval of all minor applications, including proposals for up to 3 dwellings subject to no more than 3 objections from different addresses.
- 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 Part of the way forward is 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 has not been possible to monitor the effect of the changes since the implementation of the revised delegation scheme but following discussions with some planning agents it is evident that clarification is needed on some issues relating to the "Referral request" procedure and the interpretation as to what can be regarded as 'clearly contrary to Policy' in relation to refusals of housing proposals.
- 2.3 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.

2.4 It is intended that the current scheme of delegation be clarified in relation to the 'Referral request' procedure and further details regarding delegation refusals on housing proposals and clarify the extent of delegation in relation to Environment Impact Assessment so that it makes reference to scoping and screening requests. The revised scheme will also allow delegation on minor changes and revocations of Section 106 Agreements. The attached Appendix A – Proposed Delegation Scheme, gives further details with Appendix B showing the existing Delegation Scheme agreed on the 12 January 2012.

### 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 in relation to modifications and revocations of Section 106 Agreements will significantly increase the speed in which these applications are determined. Recent examples of these requests relate to Section 106 Agreements on Holiday lets and Affordable Housing agreements. In relation to the latter I would always envisage that any amendments would only be agreed in consultation with the Head of Regeneration and or other appropriate officer. It should be noted that "Referral request" procedure would still be possible on such applications.

3.2 In relation to the ability for Councillors to 'Referral request' planning applications there has been some discussion as to whether or not this only relates to the Ward councillor in which the application is within. It should be emphasised that this is the case and therefore an application cannot be 'referred' by a non-ward councillor. Furthermore this is still the subject to agreement between the Chairman or Vice Chairman of Planning and Development Committee and the Head of Planning Services.

3.3 The current delegation scheme under Paragraph 3.4 allows applications to be refused under delegation and includes 'new housing clearly contrary to Policy'. Following discussion with a planning agent they considered that there is no guidance on what constitutes clearly contrary to Policy and who interprets the case as in many instances there may be conflicting policies. In order to offer further clarification I consider that the section should now be altered to state that this would be subject to interpretation by the case officer and the Head of Planning services.

3.4 The report also clarifies the interpretation in relation to delegation on new build commercial premises and agricultural buildings in that it is subject to the buildings not exceeding 1000 square metres floor space.

3.5 I am mindful that the impact of the revised delegation scheme has not been possible to monitor but any further increase will help 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 – none.
- Political – none.
- Reputation – none

#### 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:

- Minor modifications and revocations of Section 106 Agreements

DIRECTOR OF COMMUNITY SERVICES

BACKGROUND PAPERS

1 Current Delegation Scheme.

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

## PROPOSED DELEGATION SCHEME UPDATED 24 MAY 2012

- RIBBLE VALLEY BOROUGH COUNCIL
- PLANNING AND DEVELOPMENT COMMITTEE
- SCHEME OF DELEGATION OF DEVELOPMENT CONTROL AND COUNTRYSIDE MATTERS
- LAST REVISED 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)
- New build commercial premises of less than 1000 square metres floor space.
- 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.

# EXISTING DELEGATION SCHEME UPDATED 12 JANUARY 2012

- RIBBLE VALLEY BOROUGH COUNCIL
- PLANNING AND DEVELOPMENT COMMITTEE
- SCHEME OF DELEGATION OF DEVELOPMENT CONTROL AND COUNTRYSIDE MATTERS
- LAST REVISED 12 JANUARY 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 change 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.
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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 1

3.2 The following types of planning applications are delegated to the Director of Community Services [providing no objections are received:

- 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)
- Proposals for new shop fronts on existing shops
- Applications for consent to display advertisements
- Applications for agricultural buildings (11/4/90 then 18/12/08)
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- 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 that were not part of an original Committee
- Minor material amendments (14/1/10)
- Non material amendments (14/11/10)

#### Approvals II

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

- (a) Ancillary development within the curtilage of a dwelling house (for example, domestic garages, conservatories, porches, greenhouses and means of enclosure etc) (40/4/09).
- (b) Extensions to dwellings (30/4/09).

- (c) All other minor developments including minor commercial proposals, change of use applications, and up to 3 new dwellings.

### Refusals

3.4 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
- 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 objections.

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

3.5 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. This is subject to the Affordable Housing Memorandum of Understanding where it relates to affordable housing provision.

## 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.
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- (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.
- 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 Proposed working amendments are delegated to officers even if the original application fell into category 3.1 above.
- 8.6 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 A ward councillor will have the right to require that any application appearing on the weekly list is 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.