

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING & DEVELOPMENT COMMITTEE

Agenda Item No.

meeting date: THURSDAY, 10 OCTOBER 2013
title: PLANNING APPLICATIONS WITH NON-COMPLETED LEGAL AGREEMENTS
AND TIME EXPIRED APPLICATIONS
submitted by: JOHN HEAP – DIRECTOR OF COMMUNITY SERVICES
principal author: JOHN MACHOLC – HEAD OF PLANNING SERVICES

1 PURPOSE

- 1.1 To request Committee's authorisation to delegate decisions in relation to time related applications and particularly ones where there have been non-completed legal agreements to the Director of Community Services and Head of Planning Services to either refuse the application, with a report going to Committee or to "finally dispose of" applications in accordance with Article 36 of the Town and Country Planning (Development Management Procedure) Order 2010.
- 1.2 Relevance to the Council's ambitions and priorities:
- Community Objectives – Economic growth and delivery of employment.
 - Corporate Priorities – To be a well-run and efficient Council.
 - Other Considerations – None.

2 BACKGROUND

- 2.1 Members will be aware that in recent agendas the recommendation to grant planning permission subject to completion of a Section 106 or other Legal Agreement have also included a further recommendation that within a specified period of time, normally 6 months from the date of the decision.
- 2.2 The purpose of the 6 month timeframe was that it was seen as a reasonable time in which to expect the satisfactory completion of a Section 106 Agreement and subsequently issue a formal decision.
- 2.3 Members will be aware that there have been recent changes to planning legislation that has put significant pressure for Councils to determine applications promptly and in particular that if an application has not been determined within a 6 month period, there will be an opportunity for the applicant to request the planning fee back as well as to obtain a decision. There are also targets in relation to determination rates and one such target would involve the failure to determine applications within such a period which could ultimately face Councils under what is called a "Special Measures" which would give the opportunity for developers to no longer submit major applications to the Council and submit straight to the Secretary of State.
- 2.4 Members will also be aware that as part of the improvement to the service to the public and Members themselves, there is a regular update at Committee entitled "Section 106

Applications” which gives an indication of the date the application went to Committee as well as the progress.

- 2.5 I am of the opinion that this needs to be reviewed and in some case more details should be included on specific applications within this category.
- 2.6 It is possible to treat applications as “finally disposed of” under Article 36 of the General Development Procedure Order and this is often the approach where the application is relatively old and the applicant has no longer the right of appeal due to the passage of time. This passage of time is 6 months.
- 2.7 Article 36 of the Town and Country Planning (Development Management Procedure) Order 2010 is the statutory residue of all planning applications divided into two parts: Part 1 being the current application and Part 2 being historic applications. Part 1 is defined as those applications that are not finally disposed of ie awaiting determination and Article 36 sets out the criteria of determining whether an application is “finally disposed of”. One of the criteria states:
 - (a) that it has been decided by the Authority (or the appropriate period specified or referred to in Article 29(2) or (2a) has expired without any appeal having made to the Secretary of State.
- 2.8 At the end of such period when a decision or an appeal has been made an application is then transferred from part 1 to part 2 register and is “finally disposed of”. Therefore with all applications where the period of decision-making has expired and no appeal has been made to the Secretary of State, the Council has an option to determine an application as “finally disposed of”. In accordance with the relevant Article and the Council takes no further action on it and the application is in effect deemed withdrawn by virtue of the Statutory Provisions in the Order.

3 ISSUES

- 3.1 It is important to progress applications in an efficient manner and it is sometimes the case that little progress it made within a 6 month period in relation to the completion of a satisfactory Legal Agreement. It is clear that planning departments are under significant pressure from Central Government to determine applications in a timely manner and as such it is important to review regularly the outstanding planning applications, many of which have been subject to a Section 106 Agreement.
- 3.2 There may be some tendency for developers to view the decision of Committee as sufficient for their purposes and for that reason they do not prioritise the need to progress on a Section 106 Agreement. It is important to emphasise that until a decision has been issued no legal consent has been granted. It was hoped that the practice of additional recommendation or additional phrase in the report setting a time limit would eradicate this element but it is clear that this has not always been the case. It may be that it is necessary to review progress on specific applications as well as consider a revised timeframe of 3 months instead of 6 months.
- 3.3 It is also important to emphasise that in many cases when an application has not been determined yet could have been presented to Committee in excess of 6 months, there could be material changes in the circumstances and it could warrant a new consideration

which could impact on the original recommendation. This makes it more important to ensure that agreements are carried out efficiently and I consider that it would be appropriate to “finally dispose of” such applications if in the opinion of the Head of Planning Services and Director of Community Services insufficient progress has been made and that it is unlikely for a decision to be issued within an immediate time period.

3.4 In order to progress on specific applications, Appendix 1 of this report relates to three applications which I consider to have inadequate progress in relation to Section 106 and that issues in which a developer in some instance may have asked for further amendments to an original submission which would warrant either amended plans or new consideration. I consider that these applications should be “finely disposed of” and these relate to applications 3/2012/0065/P – 12 dwellings on land off Dale View, Billington; 3/2012/0497/P – land off Strawberry Fields, Main Street, Gisburn; 3/2012/0738/P – 10 dwellings on land off Dale View, Billington. Since writing this report I understand that the Section 106 in relation to 3/2012/0497/P has now been signed and that a decision can now be issued.

3.5 in order to put more emphasis on the need for speedy determination on applications subject to a Section 106 Agreement and to ensure that there is unlikely to be any significant change in circumstances since the original resolution, I consider it appropriate to now require that only a period of 3 months be given to secure a Section 106 Agreement and this should now form part of any recommendation to Committee in relation to planning applications which the Council are minded to approve that require a Section 106 Agreement.

3.6 To formally establish the procedure to determine applications that are time expired and that have not been the subject of a recent recommendation to Committee, I consider that there should be delegation to the Director of Community Services and Head of Planning Services to “finally dispose of” applications as appropriate. As such I would ask that the delegation scheme be clarified to give authority to these people to deem withdrawal applications.

4 RISK ASSESSMENT

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

- Resources – This will put more pressure to determine decision applications for efficiently and could have some implications regarding management of resources but not necessitate the need for additional resources.
- Technical, Environmental and Legal - No implications identified.
- Political – No implications identified.
- Reputation – Speedier determinations is an important feature and although initially this approach may be seen as less negotiable, I consider it in time improve the Council's reputation for speedier decision.
- Equality & Diversity – No implications identified.

5 RECOMMENDED THAT COMMITTEE

- 5.1 Authorise the applications in Appendix 1 of the report and referred to in the main body to be “finally disposed of” ie deemed withdrawn.
- 5.2 To amend the delegation scheme in relation to planning applications to include ‘finally disposed applications’ to be authorised to the Director of Community Services and the Head of Planning Services.

JOHN MACHOLC
HEAD OF PLANNING SERVICES

JOHN HEAP
DIRECTOR OF COMMUNITY SERVICES

BACKGROUND PAPERS

None.

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

REF: JM/CMS/P&D/10 OCT 13

APPENDIX 1

SECTION 106 APPLICATIONS TO BE 'FINALLY DISPOSED OF'

<u>Plan No</u>	<u>Location</u>	<u>Date to Committee</u>	<u>Number of Dwellings</u>
3/2012/0065	Land off Dale View Billington	24/5/12	12
3/2012/0497	Strawberry Fields Main Street Gisburn	11/10/12	21
3/2012/0738	Dale View Billington	6/12/12	10