

Subject: Amendments to Current Scheme of Delegation for Planning and Call In Procedures

Status: For Publication

Report to:
Constitutional Working Group
Cabinet
Development Control Committee
Full Council

Date:
4th July 2007
24th July 2007
29th August 2007

Report of: Head of Planning, Legal and Democratic Services

Portfolio Holder: Regenerating and Promoting Rossendale

Key Decision: Yes

Forward Plan General Exception Special Urgency

1. PURPOSE OF REPORT

- 1.1 To update and amend the wording of the current Scheme of Delegation and to consider the suggested amendment to the current call in procedures which are in operation at the Council.
- 1.2 The Council's Scheme of Delegation is in need of being updated and the report has been written having taken into account the views of the Portfolio Holder and comments made by the Development Control Committee.
- 1.3 Appendix 1 details the matters delegated to the Head of Planning Legal and Democratic Services, Appendix 2 details the matters delegated to the Development Control Committee and Appendix 3 explains the procedure for call in.

2. CORPORATE PRIORITIES

- 2.1 The matters discussed in this report are linked to and support the following corporate priorities:
 - 1. Quality Services to our customers – by allowing for decisions to be made in a more timely manner.
 - 2. Improvement – by amending the Scheme of Delegation we are meeting an objective of the Improvement Plan for Development Control and assisting in the efficient running of the Development Control Service.

3. RISK ASSESSMENT IMPLICATIONS

- 3.1 There are no specific risk issues for members to consider arising from this report.

4. BACKGROUND AND OPTIONS

- 4.1 The Development Control Service improvement plan which was agreed in July 2006 highlighted as an action the requirement to review our current scheme of delegation.
- 4.2 Previous Comprehensive Performance Assessment have highlighted as an issue the importance of performance management and the meeting of BVPI targets.
- 4.3 The Council must obtain a balance between the use of the call in procedure and meeting BVPI targets. Due to the dates of Committee and the requirement to determine planning applications within 8 weeks for minors and others and 13 weeks for majors (BVPI targets) the effect of the use of the call in procedure has been that BVPI targets have not been met.
- 4.4 The call in procedure should be considered by members very carefully and only in cases in which there are planning reasons for the call in .Members are reminded that developers have the right to appeal against decisions made by the Council. The majority of call ins by members over the last year have been on behalf of developers.
- 4.5 The report updates the current Scheme of Delegation and seeks to introduce clearer procedures for call in.

5. COMMENTS OF THE HEAD OF FINANCIAL SERVICES

- 5.1 By meeting BVPI targets the Council will be better placed to access performance delivery grant funding. This will allow us to invest further in improvements within the development control service.

6. COMMENTS OF THE HEAD OF HUMAN RESOURCES

- 6.1 There are no Human Resources implications arising from this report.

7. CONCLUSION

- 7.1 In order to continually improve the performance of the Development Control Team the amendments to the Scheme of Delegation are required. The amendment will allow the Development Control Team to offer an improved Customer Service in dealing with determining planning application.
- 7.2 The main amendment to the call in procedure is to require a ward member and one of the nominated call in representatives to agree to the call in.

7.3 The main amendments to the Scheme of Delegation are to allow officers to determine applications for up to 15 dwellings and to allow officers to refuse planning applications in cases where the applicant has submitted insufficient information. At the request of members amendments to substitution of plot types has also been delegated to officers. Applications will only proceed to committee in cases in which six or more objections have been made. This was previously three.

8. RECOMMENDATION(S)

8.1 That the amendments detailed within the report are agreed and the Constitution amended accordingly

9. CONSULTATION CARRIED OUT

9.1 Portfolio Holder.
Constitutional Working Group.
Previous comments received from Leader of the Council and Leader of the Opposition.

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No background papers

MATTERS DELEGATED TO THE HEAD OF PLANNING, LEGAL AND DEMOCRATIC SERVICES

MATTERS NOT SUBJECT TO CALL IN PROCEDURE

The Head of Planning, Legal and Democratic Services shall be responsible for the day to day management of the Council's functions in relation to

- (1) Development Control
- (2) Conservation
- (3) Forward Planning

To act on behalf of the Council and in accordance with the legislation, in relation to all Town and Country Planning and Development Control matters as set out in Regulation 2 and Schedule 1 to the Local Government (Functions and Responsibilities)(England) Regulations 2000, including determining applications for planning permission or advertisement control applications for listed building, tree works consent and Conservation Area Consent, lawful development certificates and under the Building Regulations, responding to consultations and all other matters submitted for the determination formal approval or comments of the Council as Local Planning Authority under the relevant Town and Country Planning Act and associated legislation.

the determination of the validity of applications;

the refusal of planning applications for insufficient information;

declining to accept repeat applications which have previously been refused where there has been no material change in circumstances and raise no significant new issues.

determination of whether variations and amendments to existing permissions may be treated as working amendments and the determination of these amendments and variations. Where a planning application is not required.

matters submitted for approval in accordance with a condition of a planning permission.

prior notifications and determinations of details (including those where prior approval is not required) where the period of response is less than 42 days;

certificates of lawfulness of existing or proposed uses or development.

determination of whether an environmental statement is required, the adoption of screening opinions and scoping opinions under the Town and Country Planning

(Environmental Impact Assessment)(England and Wales) Regulations 1999;

enforcement action, service of enforcement notices, breach of condition notices, stop notices, temporary stop notices, tree replacement notices and untidy land notices under the Town and Country Planning Act 1990;

enforcement action, service of repair, urgent works, and building preservation notices under the Planning (Listed Buildings and Conservation Areas) Act 1990;

the carrying out of work where notices have not complied and the recovery of costs incurred;

service of planning contravention notices and consideration of any offers and representations pursuant to such notices;

service of discontinuance notices under the Town and Country Planning (Control of Advertisements) Regulations;

notices and action under the Building Act 1984;

powers to deal with dangerous and dilapidated buildings, dangerous trees and dangerous excavations on land accessible to the public;

the authorisation of the completion, variation or discharge of Section 106 Agreements;

the making of Article 4 Directions withdrawing permitted development rights conferred by a development order, subject to consultation with the Portfolio Holder for Spatial Development;

to exercise the powers of the Council relating to the protection of important hedgerows under the Hedgerow Regulations 1997;

all powers to serve notices shall include power to withdraw such notices.

to determine all complaints made under Part 8 of the Anti Social Behaviour Act 2003 for high hedges.

injunction proceedings;

to exercise powers of entry under the Anti Social Behaviour legislation and deal with;

determination of whether claims for deemed hazardous substances consent are invalid;

authorising the prosecution of offenders for offences under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Building Act 1984, and Regulations made under those Acts;

the settlement of the amount of costs awarded to or against the Council on appeal;

the imposition of conditions on planning permissions and consents and the determination of reasons for imposing conditions;

the determination of reasons for refusal;

responses to consultations from other local planning authorities on applications other than relating to strategic applications/ consultations on LDFS documents;

the making/ modification and amendment of tree preservation orders and the confirmation of tree preservation orders where no objections have been received;

consent to fell, lop or top protected trees;

appointment of consultants in connection with any planning applications or any appeal;

to authorise the use of powers of entry under Local Government Legislation;

applications for approval of reserved matters.

this delegation to be read in addition to the current scheme of delegation and all powers conferred para 5 of the Council's Constitution Para (5)e

MATTERS TO BE SUBJECT TO CONSULTATION WITH THE PORTFOLIO HOLDER

Amendments to minutes in cases of error

Consultations on Strategic planning applications in cases in which the time limit for response expires before the next Committee

EXERCISE OF DELEGATED POWERS

The Head of Planning Legal and Democratic Services may authorise the Team Manager Development Control and other officers to determine these matters on their behalf.

SCHEDULE OF DELEGATION ARRANGEMENTS FOR DEVELOPMENT AND RELATED MATTERS

MATTERS TO BE DETERMINED BY DEVELOPMENT CONTROL COMMITTEE

1. Applications made by the Council , Councillors or their spouses or partners, Members of Staff or where the Head of Planning, Legal and Democratic Services has been made aware that a member of the Council or an Officer has an interest in the property.
2. The consideration of objections and the confirmation/modification of tree preservation orders to which objections have been received.
3. The nomination of a member of the Development Control Committee to represent the Council at any hearing or Inquiry, where the decision was made contrary to policy and officer advice.
4. Planning applications relating to Strategic applications which include:-
 - (a) the provision of dwellinghouses where:-
 - (i) 15 or more dwellings are to be provided; or
 - (ii) the site area is 0.5 hectare or more; or
 - (b) buildings are to be provided with a floor space of 1000 square metres or more; or
 - (c) the site to be developed is 1 hectare or more; or
 - (d) developments which require an environmental statement.
5. Applications or notifications which have received six or more material planning objections and which are recommended by Officers for approval.

PLANNING CALL IN PROCEDURE FOR DELEGATED APPLICATIONS

1. This procedure must be followed if a member is to require an application, which is delegated to be determined by the Head of Planning, Legal and Democratic Services, to be referred to the Development Control Committee.
 - 1 All members will receive a weekly list of all planning applications received.
 - 2 A member may only call in an application if it is within their ward area and one of the nominated Councillors on the Development Control Committee agrees that the matter should be called in.
 - 3 There will be two nominated Call in Councillors on the Development Control Committee who will organise and submit the call in and who must agree with the Ward member to the use of the planning call in and that nominated Councillor will complete the call in form. The names of the two nominated Councillor must be provided to the Head of Planning Legal and Democratic Services after Annual Council.
 - 4 Where a member requires a delegated application to be decided by the Development Control Committee, the Development Control Team Manager must be notified in writing within 28 days of the date on the weekly list.
 - 5 Where an application is amended and subject to re-notification of neighbours, the ward member shall be re-notified in writing and a 10 day call up period shall recommence.
 - 6 The attached Call In Form should be used for Call In. This will be attached to the weekly list.
 - 7 Call Ins will be date stamped on receipt. They must be emailed to planning@rossendalebc.gov.uk
 - 8 Planning reasons for Call In are required.
 - 9 When a Call In is received outside the Call in period, the member will be notified that the Call In is invalid. If there has been no Call In within the Call In period the application will be decided by the Head of Planning, Legal and Democratic Services.
 - 10 Members may withdraw a call in once made.

NB

- 1 Call Ins should be kept to a minimum, as they increase costs and processing times. They have also affected BVPI performance targets as due to call ins we have been unable to place all required applications on the agenda.