

## WHICH TYPES OF APPLICATION ARE DELEGATED?

The matters listed below are delegated for decision/determination to the **Development Control Manager**:

### Part A

<u>DECISIONS</u>	<u>CONDITIONS</u>
<p>To approve (with or without conditions) applications for planning and other permissions/consents under Parts 3,8,11,12 and 13 of the Town and Country Planning Act 1990 and Parts 1, 2 and 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In all cases the Development Control Manager shall exercise his or her delegation where considered prudent and in all other cases refer the decision to Committee.</p>	<p>Subject to this delegation not being exercised:</p> <ul style="list-style-type: none"> <li>(i) in relation to applications for “major development” as defined by Article 8(7) of the Town and Country Planning (General Development Procedure Order) 1995;</li> <li>(ii) where material planning objections in writing are received by the Development Control Manager within the consultation period from consultees, members of the public, elected Members or other organisations which :               <ul style="list-style-type: none"> <li>(a) cannot be overcome by conditions and/or plan revisions;</li> <li>(b) raise public interest issues;</li> </ul> </li> <li>(iii) where a clear and convincing written request for referral to Committee based on material planning considerations is received by the Development Control Manager from a Council Member within 21 days from the publication of the weekly list</li> <li>(iv) where an application is submitted by Members of the Council, Council Officers or close relatives of Members or Officers</li> <li>(v) the Council’s own applications</li> </ul>

This document is extracted from **Appendix 6** of the **Planning Code of Practice** published by **Ryedale District Council** in **May 2003**

<b><u>DECISIONS</u></b>	<b><u>CONDITIONS</u></b>
<p>To refuse applications for planning and other permissions/consents under Parts 3,8,11,12 and 13 of the Town and Country Planning Act 1990 and Parts 1, 2 and 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 if satisfied that the proposals are contrary to the provisions of the appropriate development plan, planning policy guidance and circulars, do not comply with the relevant adopted local authority standards, or would be contrary to established planning practice and cause demonstrable harm to an interest of acknowledged importance. In all cases the Development Control Manager shall exercise his or her delegation where considered prudent and in all other cases refer the decision to Committee.</p>	<p>Subject to this delegation not being exercised:</p> <ul style="list-style-type: none"> <li>(i) in relation to applications for “major development” as defined by Article 8 (7) of the Town and Country Planning (General Development Procedure Order) 1995;</li> <li>(ii) where a clear and convincing written request for referral to Committee based on material planning considerations is received by the Development Control Manager from a Council Member within 21 days from the publication of the weekly list</li> <li>(iii) where representations are received within the consultation period from consultees, members of the public, elected Members or other organisations which raise material planning considerations indicating explicit support or approval of the application.</li> <li>(iv) where an application is submitted by Members of the Council, Council Officers or close relatives of Members or Officers</li> <li>(v) the Council’s own applications</li> </ul>
<p>The Development Control Manager will operate his delegated powers in relation to approvals and refusals outlined above in accordance with the Planning Protocol currently in force.</p>	

## **Part B**

The matters listed below are delegated for decision/determination to the Development Control Manager with the authorisation where appropriate to APPROVE or REFUSE unless the application or matter should, in the opinion of the Development Control Manager, be determined by the Planning Committee.

### **Section 1 - Residential**

- (a) Minor variations to layouts and substitution of house types on residential developments already having full planning permission, where it would not result in an increase in the number of dwellings already approved.
- (b) Determination of applications for the demolition of dwellings or buildings adjoining dwellings under Part 31 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any amendment or Order re-enacting or revoking that Order.

### **Section 2 - Agricultural and Forestry**

Determination of applications made under the Town and Country Planning (General Permitted Development) Order 1995 (“agricultural notifications”).

### **Section 3 - Operations**

- (a) Overhead lines up to 11 kv and buildings and engineering operations of Statutory Undertakers.
- (b) Determination of applications (Developments by Telecommunications Code System Operators) made under Part 24 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 1995, or any order revoking or re-enacting that Order. (For the avoidance of doubt this does not include Section 62 and 63 planning applications made under Part III of the Town and Country Planning Act 1990 for major telecommunications development, including masts to support discs and aerials, which are to be referred to the Planning Committee for determination).

### **Section 4 - Signs and Advertisements**

- (a) All applications for express consent for advertisements and minor amendments to approved schemes.

### **Section 5 - Similar Schemes**

- (a) To agree minor amendments to approved schemes, subject to re-consultation in appropriate circumstances.
- (b) To decline to determine repetitive applications in accordance with Section 70A of the Town & Country Planning Act 1990.

### **Section 6 - Trees and Notices Under the Hedgerow Regulations**

- (a) Applications for consent to fell, top or lop trees subject to a Tree Preservation Order or in a Conservation Area, submit observations to the Forestry Commission on Felling Licence applications and respond to notifications of proposed works to trees within Conservation Areas.
- (b) To authorise the making of Provisional Tree Preservation Orders.
- (c) To process Notices under the Hedgerow Regulations 1997.

### **Section 7 - Conditions**

- (a) Relaxation, deletion or variation of planning conditions.
- (b) Outstanding details in discharge of conditions imposed on full and reserved matters permissions.

### **Section 8 - Building Conservation**

- (a) Requests to English Heritage to 'spot list' buildings considered worthy of listing. The Ward Member(s), Committee Chairman and Vice-Chairman will be informed.
- (b) To authorise the service of Building Preservation Notices.

### **Section 9 - Enforcement Action**

- (a) To authorise the serving of Planning Contravention Notice, Breach of Condition Notices, Enforcement Notices in relation to breaches of Condition(s) and Requisition for Information Notices\*.
- (b) To remove unauthorised placards and posters\*.
- (c) To withdraw Enforcement Notices\*.

(\* in consultation with the Council Solicitor).

### **Section 10 - Building Control**

- (a) To determine all applications for consent under the Building Act 1984.
- (b) To attend to dangerous and ruinous structures and exercise control over demolitions, and make safe all unoccupied buildings in accordance with the Building Act 1984.

### **Section 11 - Consultations by Adjoining Authorities**

- (a) To submit observations to adjoining Local Authorities (including the North York Moors National Park and the County Council) on applications to be determined by those Authorities, in consultation with the Ward Member(s).

### **Section 12 - Miscellaneous Matters**

- (a) To answer enquiries as to whether proposed operations constitute development requiring planning permission (“PD enquiries”).
- (b) To agree minor amendments to approved schemes, subject to any re-consultation being deemed appropriate.
- (c) To sign all decision notices issued pursuant to the exercise of any powers delegated to the Development Control Manager.
- (d) To sign all decision notices issued pursuant to the exercise of any powers by the Planning Committee or Council.
- (e) To determine whether or not a planning application is a departure application for the purposes of Article 8 of the Town and Country Planning (General Development Procedure) Order 1995 and the Town and Country Planning (Development Plans and Consultation) (Departures) Directions 1999.
- (f) To give notice, publicise and take such other action as may be necessary to ensure compliance with the Town and Country Planning (General Development Procedure) Order 1995 and the Town and Country Planning (Development Plans and Consultation) (Departures) Directions 1999.
- (g) To determine in consultation with the Chairman and Vice-Chairman of the Committee and Ward Members, whether or not an Environmental Impact Assessment is required for the purposes of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
- (h) In consultation with the Chairman and Vice-Chairman of the Committee and Ward Members, to give and adopt such notices and opinions and to take such other action as may be necessary to ensure compliance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
- (i) To determine submissions relating to agriculture or Forestry Development made under the prior notification procedure pursuant to the Town and Country Planning General Development Order 1995 (as amended).

- (j) Power to serve notice to require in the case of an application for outline planning permission details of all or any reserved matters under Article 3(2) of the Town and Country Planning (General Development Procedure) Order 1995.
- (k) Power to serve notice directing the applicant to supply in the case of a full planning application any further information, plans and drawings necessary to enable the application to be determined or provide evidence to verify any particulars of information given pursuant to Regulation 4 of the Town and Country Planning (Applications) Regulations 1988.
- (l) To give notice, publicise consult and take such other action as may be necessary to ensure compliance with all the Orders and Regulations made pursuant to the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (m) To carry out appropriate inspections on site to ensure compliance with Building Regulations.
- (n) In consultation with the Council Solicitor, to take all relevant enforcement action under sections 35 and 36 of the Building Act 1984 and in respect of breaches of Building Regulations in force from time to time.
- (o) To deal with objections to applications for Operators Licences for the operation of heavy goods vehicles under the Goods Vehicles (Licensing of Operators) Act 1995 and any regulations made thereunder.
- (p) To serve notice of intended demolition under section 80 of the Building Act 1984.
- (q) To service notice about demolition under section 81 of the Building Act 1984.
- (r) To respond to and defend appeals against notice under section 81 and section 82 of the Building Act 1984.
- (s) To take all necessary steps for the enforcement of notice requiring works under section 99 of the Building Act 1984.
- (t) To respond to and defend any appeal against notice requiring works under section 102 of the Building Act 1984.
- (u) To advise appropriate licensing bodies in respect of applications received under various licensing legislation on matters relating to Building Regulations or other safety issues.
- (v) To undertake the duties of Proper Officer under section 78 of the Building Act 1984 (dangerous buildings - emergency measures).

## Planning Protocol    March 2003

This Planning Protocol was adopted by Full Council on 6 March 2003 and is intended to provide a guide to the exercise by the Development Control Manager of delegated powers in relation to the Planning and Listed Building functions.

This Protocol comprises two elements showing the division of responsibility between the Planning Committee and the Development Control Manager:

- (i) a Process Map; and
- (ii) text intended to provide a plain English guide to terminology.

This Protocol should be read in conjunction with the delegation scheme for the Development Control Manager.

### Planning Applications Process Map

#### Major Development Applications

Committee Decisions	Delegated decisions
<p>All major category applications</p> <p style="text-align: center;">e.g. more than 9 dwellings, more than a hectare, commercial applications more than 1000m<sup>2</sup></p>	<p>None to be delegated</p> <p style="text-align: center;">BVPI target 60% in 13 weeks</p> <p>10-12 applications per year in Ryedale, about 1% of total applications</p>

#### Minor/Other Applications

Committee Decisions	Delegated decisions
<ul style="list-style-type: none"> <li>• Approvals where more than one objection raising <b>material planning considerations</b> is received. <b>(1)</b></li> <li>• Approval recommendations which would be contrary to policies in the Local Plan.</li> <li>• All applications where a <b>clear and convincing request (2)</b> for referral to Committee based on material planning considerations is received from a <b>Council Member (3)</b></li> <li>• All applications submitted by Members of the Council; Members of staff or other close relative. The Councils own applications.</li> <li>• Refusal recommendations where there is a <b>clear conflict of opinion (4)</b> with parish/town council or third parties on material planning grounds.</li> </ul>	<ul style="list-style-type: none"> <li>• All approvals where there are no objections to the proposal</li> <li>• All approvals where <b>non material planning objections (5)</b> have been received</li> <li>• All approvals where plan revisions and or appropriate conditions are <b>judged (6)</b> to address third party objections.</li> <li>• Approvals where parish/town council and/or single third party objections are received but where there are no public <b>interest issues (7)</b> involved.</li> <li>• All refusals where there is no <b>explicit support (8)</b> for the proposal from parish/town councils and or third parties.</li> <li>• All refusals where the decision is based on <b>Inadequate information / quality of information (9)</b>.</li> </ul>

## **Explanatory Notes to the Planning Protocol**

### **1. Material planning consideration – Point 4.3/4 Planning Code of conduct –**

Section 70 of the Town and Country Planning Act 1990, provides that Members have a statutory duty when determining planning applications, to have regard to the provisions of the development plan where material to the application, and to any other material consideration. The starting point for decisions on planning applications is the development plan. Section 54A of the Town and Country Planning Act says that planning decisions shall be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan consists of:

- the Ryedale Local Plan and
- the North Yorkshire County Structure Plan;

Other material planning considerations include:

- Government guidance contained, for example, in Planning Policy Guidance notes (PPGs), Regional Planning Guidance, Circulars and Ministerial announcements;
- planning briefs and other ‘supplementary planning guidance’ approved by the Council following public consultation;
- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making comments, to the extent that they relate to planning matters;
- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or indirectly in terms of car parking and traffic generation);
- public services, such as drainage;
- public proposals for using the same land; and
- legitimate planning gain/community benefit.

**2. Clear and convincing request –** A written request in writing to the Development Control Manager within 21 days of the date of issue of the weekly application list.

**3. Council Member – This point applies to any District Council Member**

4. **Clear conflict of opinion** – i.e. where parish or town councils consultees, members of the public, elected Members or other organisations recommend support or approval.
  
5. **Non material planning objections** –see Planning Code of Conduct point 4.5. The objections should be made in writing to the DC Manager.

There is much case law on what are, and are not material planning matters. *Planning matters must relate to the use and development of land.* For example, the following are *not* normally planning matters and *cannot be taken into account in planning decisions*:

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- “trade objections” from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;
- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on the opposite side of the road to or at the rear of an objector's house);
- the fear that an objector's house or property might be devalued;
- the fact that the applicant does not own the land to which his application relates (this can be overcome by agreement with the owner and, if it is not, the development cannot happen);
- the fact that an objector is a tenant of land where development is proposed; any consequences between landlord and tenant are unrelated to the application;
- allegations that a proposal might affect private rights, eg restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for Officers of the Council to advise as to such rights);

- arguments of a personal kind in relation to the circumstances of the applicant. It is essential that Members are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

6. **Judged** – the case officer in consultation with the DC Manager will judge whether the revisions or conditions address the third party objections.

7. **Public interest issues** – Development Control is about controlling development in the public interest i.e. a householder extension at the rear of the property, not perceived outside the site is an example of an application of limited impact with little or no public interest. Whereas an application for new dwellings in a prominent site readily visible from an adjacent footpath would have considerable public interest issues.

8. **Explicitly support** – A “No comments” or “No Objection” response is not considered to be explicit support for an application.

9. **Inadequate information/quality of information** – The Case officer in consultation with the DC Manager will assess the adequacy of the information. An example would be poor quality of plans or inaccurate plans.

10. **Conflict with local plan** – i.e. the erection of a new dwelling in the countryside outside a development area or failure to satisfy all the criteria of a Policy in the Local Plan.

11. **Major development** is defined by Article 8 (7) of the Town and Country Planning (General Development Procedure Order) 1995 as development involving:

- (a) the provision of dwellinghouses where -
  - (i) the number of dwellinghouses to be provided is 10 or more; or
  - (ii) the development is to be carried out on a site having an area of 0.5 hectare or more and it is not known whether the development falls within paragraph (a) (i);
- (b) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (c) development carried out on a site having an area of 1 hectare or more.