

Subject: Householder Appeals Service

Status: For Publication

Report to: Development Control Committee

Date: 20 April 2009

Report of: Planning Unit Manager

Portfolio

Holder: Portfolio Holder for Regeneration

Key Decision: No

Forward Plan

General Exception

Special Urgency

1. PURPOSE OF REPORT

- 1.1 To make committee members aware of changes to the appeals process relating to householder applications, and in particular draw their attention to the implications of the changes. The key changes are the removal of the right for third parties to make statements at the appeal stage of the process, and the removal of the opportunity for the appellant and the Council to submit appeal statements. The consequence being that the local planning authority will need to rely on the delegated / committee report, committee minute and the decision notice to justify its decision if a householder application is the subject of an appeal.

2. CORPORATE PRIORITIES

- 2.1 The matters discussed in this report impact directly on the following corporate priorities and associated corporate objective/s.
- Delivering Quality Services to Customers (Customers, Improvement)
 - Delivering Regeneration across the Borough (Economy, Housing)
 - Keeping Our Borough Clean and Green (Environment)
 - Promoting Rossendale as a cracking place to live and visit (Economy)

3. RISK ASSESSMENT IMPLICATIONS

- 3.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:

- If the Council does not implement the changes, it will be at risk of costs due to not having regard to the legislation of Section 196 of the Town & Country Planning Act 2008 and the associated regulations to commence from the 6 April 2009.

4. BACKGROUND AND OPTIONS

- 4.1 The new Householder Appeals Service officially went 'live' on **6 April 2009**. This is the day that the relevant secondary legislation came into force, bringing legal weight to the new, expedited procedure for householder appeals which proceed on the basis of written representations (to be known as the "Householder Appeals Service") and result from planning applications submitted after this date.
- 4.2 The 2009 Regulations revoke and replace (with some minor transitional provisions) the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000. Part 1 of the 2009 Regulations will set out the procedures for the Householder Appeals Service.
- 4.3 The Planning Inspectorate has published guidance on how the changes should be implemented and the implications of such changes. This includes the definition of what constitutes a householder application and the criteria which will be used to consider when the Householder Appeals Service applies and when it does not. The Planning Inspectorate will make the judgement on the procedure to be following having regard to the definition and the criteria contained in the guidance, though the Council can submit reasons why such an approach should be taken.
- 4.4 Of particular relevance to members are the implications of the changes rather than the technical procedural changes required (which the Council had to introduce on the 6 April 2009) relating to amendments to standard letters and notices for householder applications to reflect the new appeals process.
- 4.5 The key implications are identified as follows.
- Where an appeal is to proceed by way of the Householder Appeals Service, any representations made at the application stage by neighbours and other 'third parties' will be sent on to the Planning Inspectorate for its consideration in the determination of the appeal - there will be no opportunity for these parties to make further comments at appeal stage.
 - Similarly, for appeals dealt with through the Householder Appeals Service, the 'principal parties' (the appellant and the local planning authority) will not have the opportunity to submit appeal statements. This means that local planning authorities will need to rely on delegated / committee reports, committee minutes and their decision notice to justify their determination at the appeal stage.
 - Consequently the Council needs to ensure that all delegated and committee reports clearly and sufficiently explain the Council's decision. This is particularly important in relation to decisions to refuse

householder applications as it is this information which the Council has to rely on in the event of an appeal.

- In instances where a Committee overturns the Officer recommendation for approval it is especially important that Committee expresses its reasons for refusal in a sufficiently full and detailed manner and that this is reflected in the minutes of the meeting and on the decision notice.
- All decision notices need to set out clearly and precisely the reasons for the refusal, and refer to all relevant planning guidance and policies.

- 4.6 Finally, the government has indicated that regulations are being prepared in relation to claims for costs on appeals which will for the first time allow costs to be awarded against either the appellant or the local planning authority in relation written representation appeals for “unreasonable behaviour”. Circular No 8/93 sets out the current Government guidance in relation to the award of costs for “unreasonable behaviour” at appeal inquiries and hearings. Members will be advised when such guidance is published in relation to the Householder Appeals Service.

COMMENTS FROM STATUTORY OFFICERS:

5. SECTION 151 OFFICER

- 5.1 The financial implications of these changes to the planning appeal process have been factored into the annual Council and service department budgets.

6. MONITORING OFFICER

- 6.1 No comments.

7. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

- 7.1 No HR implications at this stage.

8. CONCLUSION

- 8.1 The changes introduced on 6 April 2009 will have both administrative and, more importantly, significant implications for the principle parties and third parties in respect of Householder applications that go to appeal, as outlined in the report. These are removal of the right for third parties, the appellant and the local authority to submit appeal statements. The consequence for the local planning authority being that it will be reliant on its delegated / committee report, committee minute and the decision notice to justify the determination it has made in the event of an appeal.

9. RECOMMENDATION(S)

- 9.1 Members are recommended to note the Report.

10. CONSULTATION CARRIED OUT

10.1 None

11. EQUALITY IMPACT ASSESSMENT

Is an Equality Impact Assessment required No

Is an Equality Impact Assessment attached No

12. BIODIVERSITY IMPACT ASSESSMENT

Is a Biodiversity Impact Assessment required No

Is a Biodiversity Impact Assessment attached No

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Background Papers	
Document	Place of Inspection
Householder Appeals Service Guidance for Local Planning Authorities	http://www.planning-inspectorate.gov.uk/pins/21st_century/lpa/annexe_b.pdf