

Annex A: Extract of E5 - Planning Protocol

2. The Planning and Licensing Committee

2.1 The Development Management role of the Planning and Licensing Committee

As a quasi-judicial Committee, members of the Committee are required to be non-partisan and to represent the entire district. The practice of political whipping has no place in the decisions of the Planning and Licensing Committee (hereafter, the 'Committee'), because decisions must be made on material Planning considerations.

2.2 Statutory functions of the Committee

The Committee is responsible for those functions allocated to the Council under the statutory provisions (to include statutory instruments, government policy and guidance) for control over development as defined in section 55(1) of the Town and Country Planning Act 1990 or any associated, updated or replacement legislation within the administrative district, or that will have an impact on the district, save those matters delegated to officers and included in the Scheme of Delegation.

Members involved in the Planning process shall at all times comply with the requirements of this Protocol, which are in addition to the Code of Conduct for Members.

2.3. Referring an application to Committee

Members are expected to engage with Planning officers to resolve issues at every stage and may query interpretations of policy and request extra detail.

Members have 28 days from the date of validation of the application to make representations should they consider the application should be heard at Committee (where the scheme of delegation permits such an application to be able to be requested to be determined by the Committee). Should a Member require further time and the Statutory Consultee responses have not been received or published, then the Member may make a request to the case officer via email for an extension of time to make their request to call in.

Should no request be made in line with the timescales outlined above, the application will be able to be determined under delegated authority in line with the Scheme of Delegation.

Where a Member believes, for reasons related to material Planning considerations, that an eligible application should be referred to the Committee, they must request referral by completing the Review Panel pro-forma (available here: <https://forms.office.com/e/DxK0GSYP00>). The form must clearly detail the Planning reasons why the Member believes the matter should be referred to the Committee. When making referrals, Members are reminded that they are expected to attend the Committee meeting to present their reasons for referral.

Any Member can make a request to refer any eligible application to the Committee. However, where a Member seeks to refer an application for a site located outside of their own ward, they should notify the relevant Ward Member(s) of their request at the time of making it,

Applications being considered for referral to Committee will be collated for a meeting before each forthcoming Committee meeting (known as the Review Panel). The Review Panels will be generally held on a bi-weekly basis, and the application, should it be considered to go to the Committee, will go to the next available date.

At this Panel, the Chair, Vice-Chair and Lead Officer will review the referral requests and will consider which applications should proceed to Committee. Referrals which do not contain valid Planning reasons will not be passed to Committee. The final responsibility for the decision will lie with the Senior Officer responsible for Planning.

The Panel should comprise of the Lead Officer, Chair or Vice Chair (ideally both) and where appropriate a member of legal services will attend.

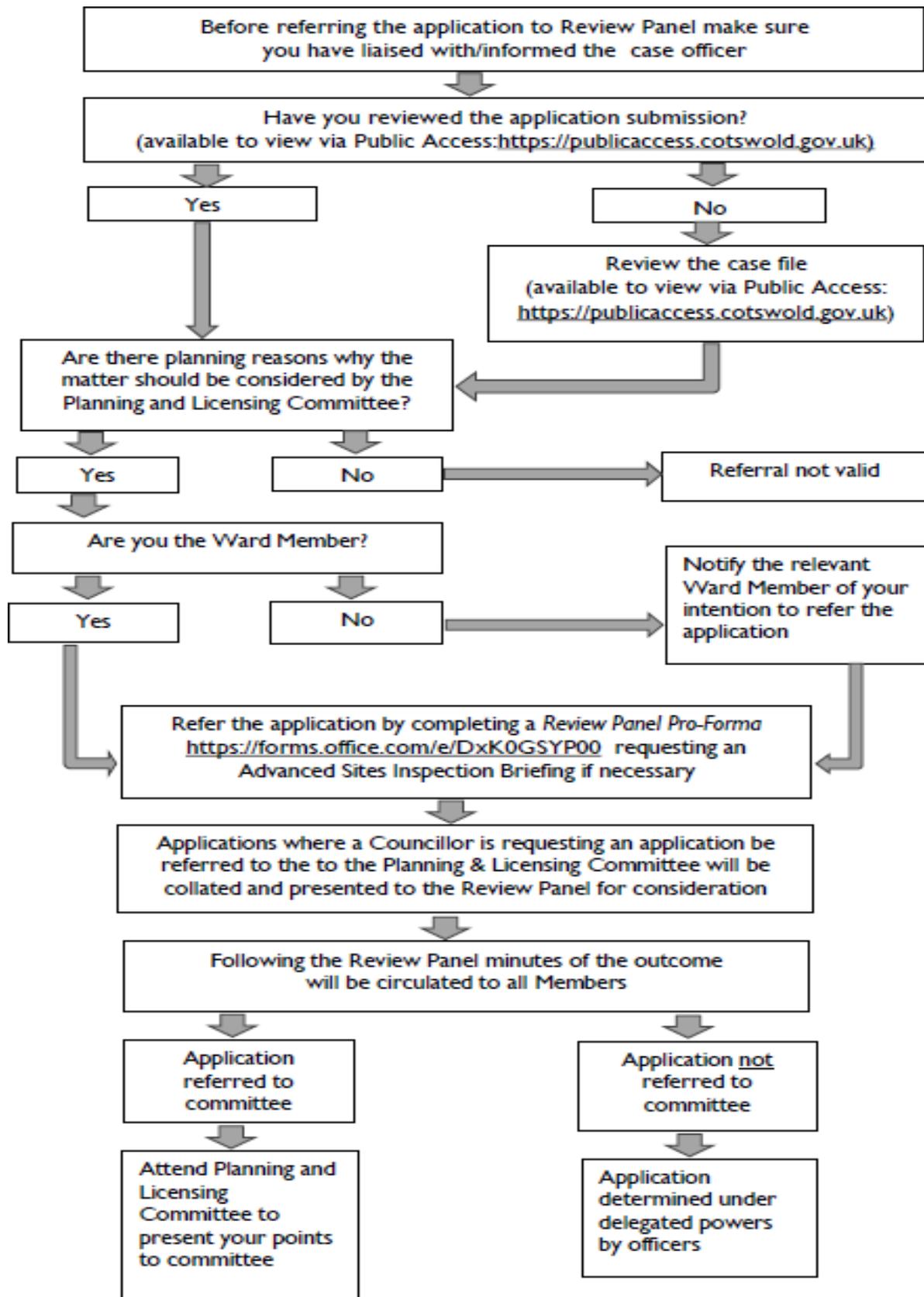
Following this meeting, the minutes of the Review Panel will be circulated to all Members and the relevant subsequent Committee agenda will be distributed to all relevant parties will at the appropriate time.

Prior to hearing any reports, councillors will be asked if they have any interests to declare in relation to any of the applications that are to be presented during the meeting. Councillors should have read the reports beforehand and, as far as possible, should have discussed any possible interest with either the Monitoring Officer, Democratic Services or the lawyer attending the committee, in private, in the days preceding the committee.

In the event that they become aware of a relevant interest during the meeting, they should raise it there and then and the legal adviser to the committee will be able to

confirm whether they will need to leave the room during the debates and votes.

Referral process flowchart:



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2.4. Officers Report

All applications to go to Committee will be presented in the form of an Officer report which will deal with all relevant documents in connection with an application. Any additional information received after the preparation of that report up to 2.00pm two working days before the day of the Committee meeting will also be brought to the attention of the Committee if it raises new and relevant material planning matters. This is referred to as late material. Papers received after that time, at the discretion of the Chair, will normally be discounted since time will not be available to check their accuracy or to give proper consideration to their implications.

If any Member receives material from or on behalf of an applicant or third party in connection with an application before a Committee, they should establish from the Planning Officers whether the material has been received by them. If it has not, they should make it available as soon as possible to the Planning Department.

2.5. Public Speaking at Planning and Licensing Committee

The purpose of permitting public speaking is to enable those affected by proposed developments to inform the Committee of their viewpoint and to contribute to an open, fair and transparent process in relation to applications in which they have an interest. All public speaking will be carried out in accordance with any guidance issued by the Council.

Guidance will be provided for members of the public who wish to speak at Committee meetings, and practical assistance will be provided for persons undertaking public speaking by Council officers at the meeting. All public speakers should provide a written copy of their speech to Democratic Services ahead of the meeting.

Public speaking is limited to three minutes per speaker. For each application, the applicant/agent and one supporter will be permitted to speak, together with one objector and one representative of the town/parish council. Public speaking will take place in the following order:

- Town/Parish Council;
- Objector;
- Supporter;
- Agent/Applicant.

Upon the conclusion of public speaking, the Ward Member(s) and, where appropriate (at the Chair's discretion), Members representing neighbouring wards directly affected by the proposed development will be invited to speak for up to five minutes each.

Where a Member for a site located outside of their own or a neighbouring ward referred that application to Committee, they will be invited to speak after public speaking and Ward Member speaking has occurred.

Where a Ward Member, or a (non-ward) Member who referred the application to Committee, is unable to attend that Committee, they may provide a written submission of up to 450 words to - and which will be read out by - the Democratic Services officer.

Ward Members who serve on a Town or Parish Council will not present the Town or Parish Council's comments during or following Public Speaking. If there is no other representative available to attend, a written submission on behalf of the Town or Parish Council, of up to 450 words, can be provided to - and will be read out by - the Democratic Services officer.

Questions and Proposals

Planning debates have two phases - Questions and Proposals. This is required as often expert opinions need to be queried or technical details clarified.

During the Questions section, Committee Members will have the opportunity to ask questions of officers and attending consultees.

The Chair will decide when the Questions section for an application ends.

During the Proposals phase, Committee Members will have an opportunity to make their points known to the Committee.

Any amendments, alternative Proposals or conditions will be made during this phase, following the usual rules of debate.

2.6. Site Inspection Briefings (SIBs)

Site inspections are usually called for by the Case Officer for large developments and held prior to the application coming before the Committee. However, in certain circumstances the Committee can vote on a proposal made by a Committee Member for an SIB. Members need to be aware that this would delay decision-making for another month and such a proposal should not be made lightly.

All SIB requests must be justified on Planning grounds and the strict criteria for holding them are as follows:

- the character or appearance of the development itself is a fundamental planning consideration;
- a judgement is required on visual impact; or
- the setting and surroundings are fundamental to the determination or to the conditions being considered.

They should not be requested when inspection of the site is irrelevant to the material conditions.

SIBs should be used with discretion, must be properly justified and have a significant expected benefit, particularly in light of the cost of SIBs and the increasing availability of visual technology.

SIBs may be either Full Committee, or Panel, with membership of the Panel set on a rota basis. Ward Members will also be invited to attend.

If access to private land is necessary for a SIB, officers will secure the prior agreement of the landowner, explaining that an SIB is a private meeting of the Council, and that third parties must not be present at the Briefing.

The purpose of the SIB is fact finding. Officers have a duty to point out all relevant features of the site and surroundings. The attending officer will describe the proposal and draw attention to relevant features. The officer will not discuss the merits or otherwise of the application ahead of formal publication of the report regarding the application. Members will be able to see the physical features of the site and ask questions, through the Chair, of the officers to seek clarification. The visiting party will stay together as a group.

Conduct of Site Inspection Briefings (SIBs)

- Will be conducted in a formal manner.
- Chair or Vice-Chair will open the SIB, and advise Members of purpose and conduct.
- Officers will highlight issues relevant to site inspection. If issues are raised which necessitate consultation with the applicant or his agent, this should be raised after the close of the meeting and the outcome reported to the

subsequent Committee.

- Chair or Vice-Chair to close

SIB. General Matters

- There will be NO debate about the merits of the application and no decision will be made.
- No formal notes will be made; an officer will orally update the Committee on any new findings or further developments when it next meets to consider the application, although a record of attendance will be maintained.
- No hospitality will be accepted.

Members who have a disclosable pecuniary interest in an application are precluded from attending any SIB on that matter. In addition, if an interest becomes apparent during a SIB, the Member should immediately declare it to the Chair and withdraw from the site. Members with another interest in an application subject to a SIB must declare the interest but may continue to attend the site.

2.7. Voting at Committee

It is permissible to vote on an application only if you have **no relevant disclosable interests and you have** been present for the whole of the presentation of, and discussion on, the application.

Note: In the event that there is a lawful requirement for the meeting is being held remotely, the usual rules in relation to quorum will continue to operate. If there is a drop out of connectivity the Chair will pause proceedings until Members are reconnected. Prior to the vote, Democratic Services will check that Members have heard all of the debate.

2.8. Decisions Contrary to Officer Recommendations or to Development Plan Policies

Should the Committee propose to vote against an Officer Recommendation, it will be for the Members to clearly set out their reasons for doing so and these should be clearly specified in the resolution of the Committee and recorded in the Minutes.

2.9. Action on Decisions Taken Contrary to Professional Advice

In cases where an Officer Recommendation for approval has been voted against by Committee and an appeal is lodged:

- officers shall give full support to external witnesses in preparing evidence for any public inquiry, short of giving evidence themselves;
- officers will give evidence themselves only in exceptional circumstances, where their Code of Professional Conduct is not breached (for clarity, not in the case of a Public Inquiry);
- where an Informal Hearing is to be held, with no cross-examination, officers may give evidence themselves where the Code of Professional Conduct is not breached, but this will normally be only if the officer concerned has not been involved in formulating the original recommendation;
- officers must give full support to Member decisions which are appealed using the Written Representations procedures.

2.10. Committee unable to determine

In any case where the Committee have voted both for and against a motion, both votes have been lost, and either no vote for deferral is made, or such a vote has also

been lost, the Committee will be considered to be in 'deadlock' and the application will be referred to Full Council for determination.

2.11. Non Members of Planning & Licensing Committee Attending Meetings

Councillors may attend Committee meetings even if they are not a Member of that Committee unless they have a Disclosable Pecuniary Interest in regard to the application being determined. They may speak on applications in their ward in their capacity as the Ward Member before the questions and proposals stage, but they cannot vote. When they attend Committee, they should not sit in the public gallery, but in the place reserved in the Council Chamber for Members of the Council who are not Members of the Committee.

