

Annex A1

E5 - Planning Protocol

1 Purpose of this Protocol

This protocol sets out guidance for both officers and councillors when determining Planning and related applications, specifically those which come before the Planning and Licensing Committee for determination.

This Protocol should be read in conjunction with:

(a) Part C of the Council's Constitution – "Responsibility for Functions", which sets out the functions and responsibilities of the Planning and Licensing Committee;

(b) the Council's Planning Scheme of Delegation, including the National Scheme of Delegation of Planning Functions and the arrangements for the exercise of delegated planning functions; and

(c) the Council's Members' Code of Conduct and any other relevant constitutional provisions.

This Protocol sets out how the Planning and Licensing Committee will operate, including the circumstances in which planning applications may be referred to the Committee for determination and the procedures to be followed when the Committee takes decisions. In this Protocol, reference to planning functions includes all planning and related functions unless otherwise specified. Definitions used in this protocol have the same meaning as defined in the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026

The provisions of this Protocol shall be interpreted and applied consistently with the National Scheme of Delegation of Planning Functions and the regulations and statutory guidance applicable to the determination of planning function

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 Planning and Licensing Committee shall exercise the planning and related functions assigned to it by Part C of the Constitution and the Planning Scheme of Delegation, subject to any statutory requirements. Planning and related applications shall be determined in accordance with the National Scheme of Delegation of Planning Functions and the Council's approved arrangements for delegated decision-making.

Schedule 1 applications and functions shall be determined by officers, except where the regulations require or permit a different process, including for Own-Interest Applications. Schedule 2 applications shall normally be determined by officers and may be referred to Committee only where the applicable statutory provisions are met. Planning functions outside Schedules 1 and 2 shall be allocated in accordance with Part C of the Constitution and the Planning 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

Under the National Scheme of Delegation, there is no general Member "call-in" right. Planning functions must be determined by officers unless the statutory process allows referral to Committee. An eligible Schedule 2 application may be referred only where the Nominated Officer and Nominated Member agree that the Gateway Test is satisfied. The Nominated Officer is the Head of Planning Services and the Nominated Member is the Chair of the Planning Committee.

A Member may request that an eligible Schedule 2 application be considered for referral to Committee. The request does not itself refer the application to Committee; that decision rests with the Nominated Officer and Nominated Member.

Members are encouraged to engage with Planning officers at an early stage to clarify issues, query policy interpretation or seek further information. This engagement should be used to resolve matters where possible, but it does not replace the statutory referral process.

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

A Member wishing an eligible Schedule 2 application to be considered under the statutory Gateway process must submit a written Gateway Request within 28 calendar days of being notified that the application is valid. If more time is needed, the Member may request an extension by email to the case officer before the 28-day period expires.

Should no representations or request for an extension of time be made in line with the timescales outlined above, the application will 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 submit a Gateway request. As a minimum, the request should include:

- the application reference and site address, so that eligibility under Schedule 2 can be confirmed;
- the material planning considerations relied upon, including why those matters may justify Committee determination under the Gateway Test. Any request should identify the relevant issue of economic, social or environmental significance, or the significant planning matter relied upon, and explain why it may justify determination by the Planning Committee; and
- any relevant local impacts or representations that the Member considers should be weighed in the planning balance when applying the Gateway Test.

All requests must be sent to CDC.PlanningReviewPanel@cotswold.gov.uk and should be copied to the relevant case officer. When received, requests will be published to the planning file.

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.

2.4 The Gateway Review meeting

The Gateway Review Meeting comprises of the Nominated Officer and Nominated Member. The Meeting will generally be held fortnightly, and will consider all Schedule 2 requests and whether the Gateway Test has been satisfied in order for an application to be referred to Committee.

In the event the Nominated Officer and/or the Nominated Member is unavailable, has a conflict of interest, or is otherwise unable to act, the Assistant Director for Planning Services shall substitute for the Nominated Officer and the Vice-Chair of the Planning Committee shall substitute for the Nominated Member. Where no nominated substitute is available or able to act, consideration shall be deferred until the Council has nominated an alternative.

For the Gateway Test to be satisfied, the Nominated Officer and Nominated Member must agree that the application is an eligible Schedule 2 application and that it raises:

- (a) one or more issues of economic, social or environmental significance to the local area; or
- (b) one or more significant planning matters, having regard to the development plan and any other material considerations.

Committee referral requests will be triaged by the case officer and Senior Officer for Planning before being collated for a meeting . Administrative triage will confirm whether the application falls within Schedule 2, summarise the application, the material planning considerations identified in the request and any relevant consultation responses, and provide that information to the Nominated Member and Nominated Officer. Triage will not determine whether the statutory Gateway Test is satisfied or whether the application should be referred to Committee.

At this Gateway Review Meeting, the Nominated Officer and Nominated Member will review the referral requests and will consider which applications should be referred to Committee. Requests which do not meet the Gateway Test will not be passed to Committee. A Schedule 2 application will only be referred to Committee where the Nominated Officer and Nominated Member agree that the Gateway Test is satisfied; where they do not agree, the application will remain for determination under delegated authority.

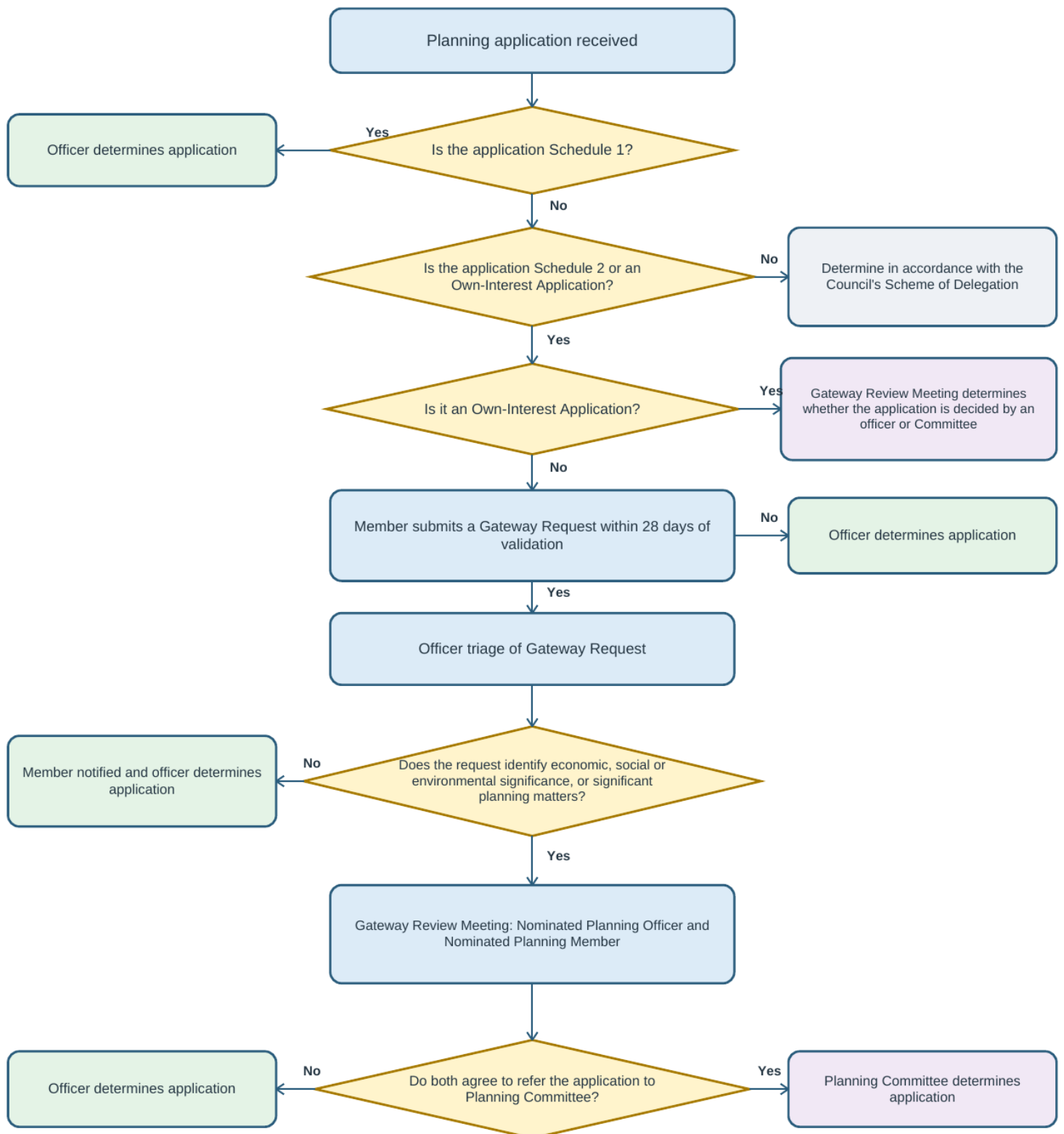
In considering whether an application should be referred, the Nominated Member and Nominated Officer must have regard to the statutory guidance issued under section 319ZZE(4) of the Town and Country Planning Act 1990 relating to Planning Committees and the National Scheme of Delegation of Planning Functions.

Following each Gateway Review Meeting, minutes will be circulated to all Members and the Gateway Decision will be published to the planning record. A summary of all Gateway Review Meeting outcomes will also be reported to the Planning and Licensing Committee on a quarterly basis or the next scheduled meeting thereafter.

Where material amendments are received after an application has been considered at a Gateway Review Meeting but before determination, the Senior Officer Responsible for Planning shall determine whether Members should be re-notified and whether a further Gateway Request period and Review Meeting should be permitted.

Members must not seek to influence the Nominated Member or Nominated Officer to refer, or not refer, an application to the Committee other than by providing relevant information through the Council's approved process. Members must not seek to direct or pressure officers exercising delegated planning functions to determine an application in a particular way.

Referral process flowchart:



2.5 Committee Protocol

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. Where the application has been referred to Committee following consideration under the National Scheme of Delegation, the report shall state, in appropriate terms, the basis on which the application has been referred.

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. Material received after that time, including on the day of Committee, will be brought to Members' attention where it raises relevant material planning considerations. Where late material raises significant new matters which cannot reasonably be assessed, checked or responded to before the item is considered, Members may need to consider whether the application should be deferred to allow proper consideration of those matters.

Prior to hearing any reports, Members will be asked if they have any interests to declare in relation to any of the agenda items or 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 disclosable interest with either the Monitoring Officer, Democratic Services or the legal adviser attending the committee, 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.

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 Case Officer 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.

2.6 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 Debate

Planning debates have two phases - Questions and Debate. 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 clarity relating to an application of officers and attending consultees.

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

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

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

2.7 Site Inspection Briefings (SIBs)

Site Inspection Briefings (SIBs) may be arranged where a site inspection is considered necessary to assist the Committee in understanding material planning considerations relevant to the determination of an application.

SIBs should be used only where they are justified on planning grounds and where inspection of the site is likely to provide a significant benefit to the Committee's understanding of the application.

Site inspections can be called for by the Case Officer in advance of a Committee meeting and in certain circumstances the Committee can vote on a proposal made by a Committee Member for an item to be deferred for an SIB. Members may also request advanced SIB's through the Gateway Request, which will be considered at the Gateway Review Meeting. Members need to be aware that this would delay decision-making 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:

- **Understanding the proposal itself:** Where the scale, character, appearance, layout or physical form of the development is central to the planning judgement and cannot be adequately understood from the report, plans, photographs or visualisations.
- **Understanding the site's context and impacts:** Where a site visit would materially assist Members in assessing matters such as visual impact, landscape/townscape impact, heritage setting, residential amenity, access, levels, boundaries or the relationship with neighbouring land uses.

- **Understanding whether conditions or mitigation would work in practice:**
Where the site inspection would help Members understand whether proposed conditions, mitigation, access arrangements, landscaping, screening or other controls are necessary, reasonable and capable of addressing the relevant planning issues.

SIBs should not be requested where inspection of the site would not materially assist Members' understanding of the relevant planning issues, or where the matter can be adequately assessed from the report, plans, photographs, visualisations or other published material.

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 will usually be Full Committee, however, a Panel can be used in certain circumstances, 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 Committee, and that third parties must not be present at the Briefing.

The purpose of the SIB is fact finding. Officers will inform Members of 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

- SIB's are formal meetings and will be conducted in a formal manner.
- No hospitality will be accepted.
- Members and officers attending an SIB are expected to arrive on time, remain with the visiting group, and dress appropriately for the site conditions, including suitable footwear.
- Attendance should be limited to Members and officers participating in the SIB,

and Members should not bring other persons or animals unless this has been agreed in advance for accessibility or other exceptional reasons.

- The Chair or Vice-Chair will open the SIB, and advise Members of purpose and conduct.
- A record of attendance and the fact and date of the SIB shall be maintained. Apologies should be provided in advance from any Member or officer unable to attend.
- There will be NO debate about the merits of the application and no decisions will be made.
- The Chair or Vice-Chair will close the meeting.

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.

2.8 Voting at Committee

It is permissible to vote on an application only if you have been present for the whole of the presentation of, and discussion on, the application.

In the event that there is a lawful requirement for the meeting to be held remotely, the usual rules in relation to quorum will continue to operate. If there is a loss of connectivity, the Chair will pause proceedings where necessary until Members are reconnected. Prior to the vote, Democratic Services will confirm, so far as practicable, that Members entitled to vote have heard the relevant presentation and debate. 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. Where the Committee resolves to determine an application contrary to the officer recommendation, officers shall, in consultation with the Chair and, where appropriate, the relevant legal officer, finalise the wording of any reasons for refusal, conditions, informatives or other consequential matters necessary to give effect to the Committee's resolution. This shall not alter the substance of the Committee's decision.

Where a decision departs from an adopted Development Plan policy, the Committee must clearly identify the material planning considerations relied upon and explain why those considerations justify the departure.

2.9 Action on Decisions Taken Contrary to Professional Advice

In cases where an appeal is lodged against a decision of the Committee:

- 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);
- officers must give full support to Member decisions which are appealed using the Written Representations procedures.

Nothing in this section shall require an officer to provide evidence or professional opinion which would breach their statutory or professional obligations.

Appeal decisions relating to applications determined by the Committee will be reported back to the Planning and Licensing Committee in an appropriate form to support Member learning, consistency of decision-making and review of any relevant procedural or policy issues.

2.10 Committee unable to determine

Where there is an equality of votes on a motion, the Chair shall exercise their casting vote in accordance with the Council's Constitution so that the Committee reaches a decision.

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.

3 Advice and Guidance for Members

3.1 Training

As a Member of a Planning and Licensing Committee, they must undertake introductory and planning procedures training before they can serve on the Committee.

Committee Members will also undertake refresher training on at least an annual basis.

3.2 The Role of Members

In making decisions on applications, Members will:

- act fairly and openly
- approach each application with an open mind
- carefully weigh up all the material planning considerations
- avoid inappropriate contact with interested parties
- ensure that valid reasons for decisions are clearly stated.

Members will be free to vote on applications as they consider appropriate (i.e. without an explicit or implicit Party 'whip'), deciding them in the light of all the relevant information, evidence and arguments. In accordance with the requirements of the Town and Country Planning Act, they will base their decisions on the provisions of the Development Plan (and all material planning considerations) and upon any other related relevant considerations in regard to decisions on matters other than planning applications that are before them.

They may not give instructions to Officers nor may they place pressure on Officers in order to secure a particular recommendation on an application. They may request extra information about an application from the case officer to help them in their deliberations.

They will not use their position improperly to confer or secure for themselves, or for any other person, an advantage or disadvantage.

3.3 Predetermination and Predisposition

Members must consider each application on its merits and must not do anything which may preclude them from taking part in the determination process. They must only make their decision after reading the report, hearing the Officer's presentation and any points of clarification and all the arguments on both sides.

It is acceptable to have a legitimate predisposition in relation to an application. A Member who has expressed a preference for a particular outcome, will not be taken to have a closed mind when making their decision, provided that a fair-minded observer would think that they were open to changing their mind in the light of different or additional information, advice or evidence presented.

A Member may however be considered as predetermining an application if they have:

- expressed an intention to vote in a particular way before a meeting, or
- acted as an advocate for the application, including being significantly involved in the preparation or submission of the application, or
- acted as an active supporter or objector of the application.
- in any circumstances where a Member is unclear they should consult the Council's legal advisor or Democratic Services.

3.4 Discussions with Applicants

Local authorities are encouraged to enter into pre-application discussions with potential applicants. In addition, negotiations and discussions are likely to be ongoing after an application has been submitted. Such discussions can often be interpreted by the public, and especially objectors, as prejudicing the Planning decision making process. In order to allay such perceptions, application discussions should take place within the clear guidelines given below.

Pre-application meetings with prospective applicants are encouraged, but, to avoid misunderstandings, they require a degree of formality. They will normally only involve Officers. Members should not involve themselves in such meetings unless an appropriate Senior Officer is present. It will be made clear at such pre-application meetings that:

- Officers' initial views and advice are given on a without prejudice basis which will be consistent with the provisions of the current Development Plan and

other adopted Council policy (unless there are clear material considerations that would justify consideration of a development contrary to policy;)

- no decisions may be made or advice given which would bind or otherwise compromise the Planning and Licensing Committee of the Council (or the Senior Officer responsible for Planning if delegated to make the decision); and
- for all pre-application meetings, a note of the discussion (not a formal advice note) will be taken by the Planning Officer, including details of those present, and will be made available for public inspection, subject to the usual rules about access to information. At least one appropriate Planning Officer will be present at all such meetings.

Members may, following discussion with the appropriate Planning Officer, take part in organised post-submission meetings with applicants or other parties. A note of any discussions will be taken and will be made available for public inspection, subject to the usual rules about access to information. At least one Planning Officer will be present at all such meetings, unless the meeting is a formal meeting of a Town or Parish Council (including its planning committee).

If Members do engage in pre-application discussions with developers, observe the rules on lobbying and observe the do's and don'ts contained in *Positive Engagement – A Guide for Planning Councillors (2008)*

3.5 Lobbying

Lobbying or seeking to influence a decision is a normal and perfectly proper part of the political process. However, it can lead to impartiality being called into question and the need to declare publicly that an approach of this nature has taken place.

Problems could arise if Committee Members indicate or give the impression of support or opposition to a development proposal or particular planning application, or declare their voting intention to anyone, before a decision is to be taken. To do so without all of the relevant information (including the officer report) and views to hand would be unfair and would prejudice the impartiality of the decision-making process, although the Localism Act does allow a Committee Member to express a particular predisposed position.

Lobbying can take place by way of an approach to you, by telephone, or on a chance meeting, or by way of a request to see all or some of the Committee. It is an essential part of the democratic process that members of the public should be able to make their views known to them. However, to avoid compromising their position before they have received all the relevant information, evidence and arguments, Committee Members will:

- avoid discussing with an applicant or any other person their thoughts about the merits and flaws of a planning application or proposed development;
- pass any written material provided to them to the case officer dealing with the application for inclusion and evaluation in their report;
- not make it known in advance of the consideration of the application by Committee whether they support or oppose a proposal unless they accept that this will mean that they may not take part in the decision;
- restrict their response to giving procedural advice, and make it clear that that is all they are prepared and allowed to do;
- direct lobbyists or objectors to the case officer and advise that their views should be expressed in writing, and
- advise the Senior Officer responsible for Planning, or where appropriate, the Monitoring Officer, as soon as possible of the existence of any substantial lobbying activity.

Committee Members should avoid signing any Petition on a matter likely to be determined by the Committee.

If a Committee Member expresses publicly a final view on an application prior to the meeting at which a decision is to be taken, they will be required to withdraw from the meeting whilst the application is discussed and determined. Public expression of a view would include, for example, making a statement to the press of their firm attitude to an application, or in any document to be made publicly available, at a meeting of the Council or a Town or Parish Council (or one of their Committees), or in any situation where the view expressed might reasonably be expected to gain wider circulation.

In exercising the functions of the Gateway Review Meeting, the Nominated Member and Nominated Officer must exercise their functions independently and

must not be subject to inappropriate lobbying or pressure. No Member or officer of the Council, shall lobby or otherwise seek to pressure the Nominated Member or Nominated Officer for the purpose of persuading them to exercise those statutory functions in a particular way.

3.6 Planning and Licensing Committee Members who serve on Parish and Town, or County Councils

Some Councillors will be Members of Parish or Town Councils, or of Gloucestershire County Council (collectively 'Other Council'), as well as Cotswold District Council Councillors. This situation can also present problems where the Other Council is consulted on Planning applications. It is quite conceivable that a Councillor in this position could finally vote in a different way when all the relevant information is made available in the Officer's report.

In order to avoid any potential conflict, it would be preferable for Councillors not to contribute to Other Councils' considerations of Development Management matters. Members who do serve on Other Councils may find it helpful to make the following statement to clarify their position when regarding Development Management matters:

While I will consider this matter as a Member of this Council, I am also on the Planning and Licensing Committee of Cotswold District Council and may be called upon to vote on any application that this council responds to. In the light of additional information received, I may not vote at the District Council's Planning and Licensing Committee as I will in this meeting.

See Section 2.5 above for further advice for Members who wish to speak on an application, who are also a Member of an Other Council.

3.7 Hospitality

As a Member of the Council, they are discouraged from receiving hospitality generally, but are expressly prohibited from receiving any gifts or hospitality from people with an interest in a Planning proposal.

4 Rules around certain types of application

For the purposes of the National Scheme of Delegation, an Own-Interest Application shall have the meaning given in the applicable regulations and shall include an application made, whether or not jointly with any other person, by the Council or by a Member or officer of the Council, or an application in which the Council or any of

its Members or officers has an interest of the type specified in the regulations.

Own-Interest Applications shall be dealt with in accordance with the regulations, the Council's Planning Scheme of Delegation and this Protocol.

4.1 Own Interest Applications Applications

All Own Interest Applications must be drawn to the attention of the Senior Officer responsible for Planning at the earliest opportunity. The application shall be referred to Gateway Review Meeting and where the Nominated Officer and Nominated Member may agree to refer an Own-Interest Application to the Planning Committee, having regard to the relevant statutory guidance and the nature and extent of the Council's, Member's or officer's interest in the application.

Where the application is not referred to Committee, it shall be determined by an officer in accordance with the statutory and constitutional arrangements.

Where an own-interest application constitutes an application submitted by or on behalf of a Member of the Council in their private capacity, that Member must not speak in support of, or take part in the determination of, an application as described above. A Member with an interest in an application must not participate in, attend or seek to influence the Own-Interest Referral Decision. Where that Member is the Nominated Member, the designated substitute shall act.

If an application is submitted by a close relative or partner (as defined in the Code of Conduct for Members) of a Member of the District Council, the Member should not speak in support of, or take part in the determination of, the application. The applicant may speak at Committee meetings or appoint an agent to speak on their behalf. An application made by a close relative or partner of a Member or officer is not automatically an Own-Interest Application under Regulation 6. It shall be drawn to the attention of the Nominated Member and Nominated Officer so that they may determine whether the Council, Member or officer otherwise has an interest within the meaning of Regulation 6.