

# Planning Applications

## Commenting on and Referring Planning Applications to the Planning Committee

*A guide for Parishes and Residents*

# 2021



*‘Planning is a sensitive area of local authority work because of the considerable sums of money which can hinge on individual planning decisions and the strong emotions often felt by those supporting or opposing development proposals. It is particularly important, therefore, that the planning process is conducted in a fair, open and even-handed way.’ - Government response to Nolan.*

## Introduction

This simple guide is to assist parish committee members and residents who may have not attended CDC planning training. Highlighted text is linked as described.

Your District Councillor is expected to remain impartial if he/she is to retain their integrity. This does not mean that they are unable to liaise with you, the planning officers or other consultants, who can often offer clarity and guidance during the consultation period. The earlier discussions are opened, the greater the opportunity for consideration and consensus.



Planning decisions are based on balancing competing interests and making informed judgements against national and local policy framework.

Decisions can be controversial. It is helpful to understand that Planning Officers are mandated to approve applications, they approach all applications with a **Presumption to Approve** and will only recommend refusal because policy does not allow approval. The risk of controversy and conflict are heightened by the openness of the system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. It is important that the decision-making process is open and transparent. Section 128 of the NPPF states: *Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot.*

Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, may seek to influence it through an approach to their ward member or to a member of the planning committee.

As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".

Lobbying your Ward Member (District Councillor), however, can lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all. If a councillor has predetermined their position, they should withdraw from being a member of the decision-making body for that matter.

**Ward Members are encouraged to actively engage with the Case Officer early on in the planning process to try and resolve issues.**

**[Planning Advisory Service 'Probity in Planning'](#)**

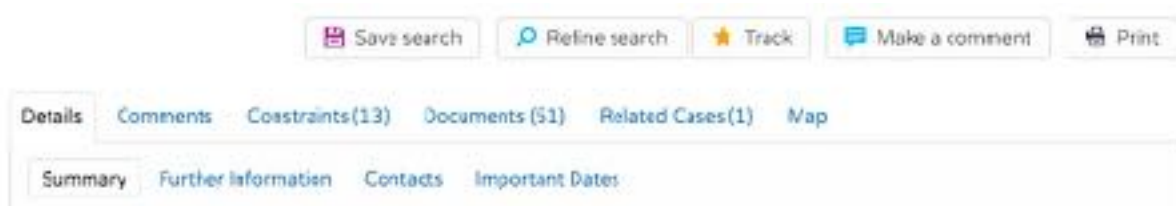
## **PROCEDURE**

If you wish to object, support or make other observations to an application, please do it via the preferred Public Access route on the Council's website. Occasionally comments are submitted by text or mail and this can lead to misunderstandings and/or a lack of formal record being made on the system, which in turn can lead to lack of formal communication or notification regarding procedures (e.g. Committee dates, public speaking, etc.).

Cotswold District Council Planning Portal - [Simple Search](#)

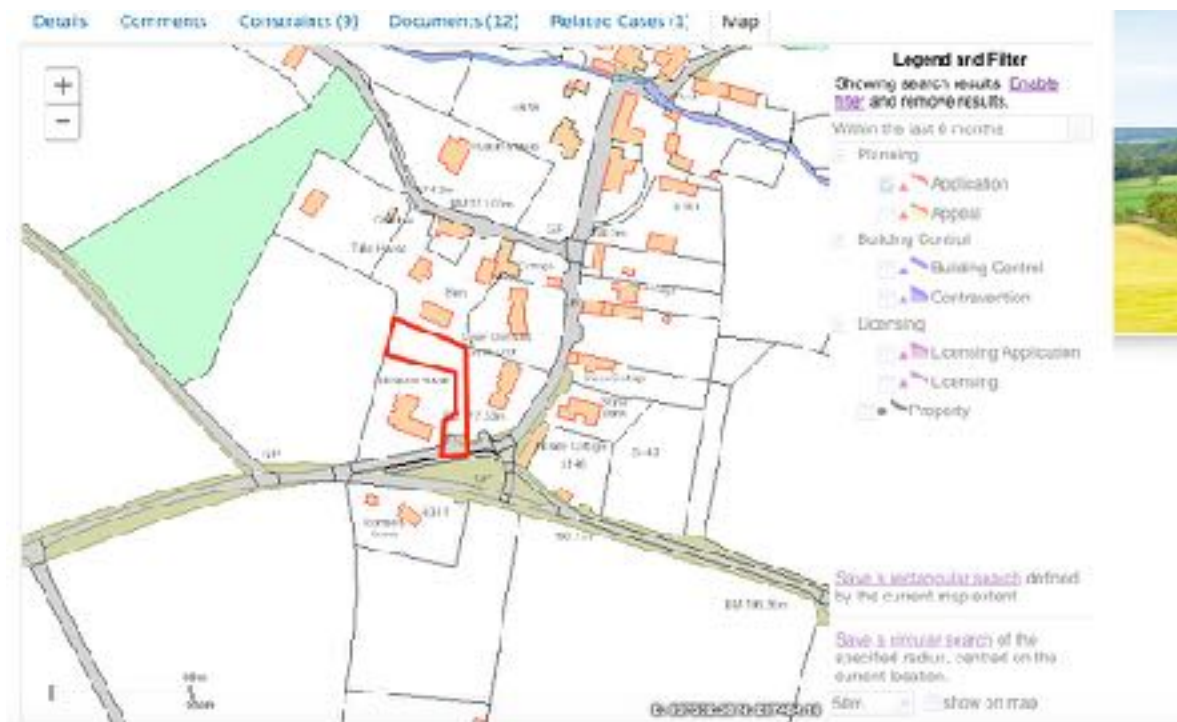
Find the property by either typing the property name, village name or reference number. You will be given the option of a number of tabs. You can 'track' an application which means that you will receive an email of any additions or changes to the application. You will also get an idea of the planning policies the planning officer is taking into consideration.

MAKE A COMMENT tab will open up a form for you to fill in the details and leave your comment. It does not allow the uploading of photographs or other documents. For this you will have to email the Planning Officer under CONTACTS.



When researching a planning application, most of the information you will be looking for will be listed under DOCUMENTS.

The MAP tab is helpful to identify the exact location of the site and give it context.



## Material Planning Considerations

Planning applications **can only be decided** on *material planning considerations* as set out within the policies. **This is very important.** The law requires that decisions should be taken in accordance with the development plan, unless material considerations indicate otherwise. This applies to all planning decisions. Reasons for refusal **must** be justified against the development plan and other material considerations.

Material planning considerations include (but are not limited to):

- Overlooking/loss of privacy
- Loss of daylight/sunlight or overshadowing
- Scale and dominance
- Layout and density of buildings
- Appearance and design of development and materials proposed
- Disabled persons' access (where applicable)
- Traffic and parking issues
- Drainage and flood risk
- Impact on character or appearance of area
- Effect on listed buildings and conservation areas
- Effect on trees and wildlife/nature conservation
- Impact on the community and other services
- Economic impact and sustainability
- Government policy
- Proposals in the Local Development Plan
- Previous planning decisions (including appeal decisions)
- Effect on neighbours' daylight, sunlight or privacy
- Impact of traffic, road access, highway safety, parking
- Appearance, bulk or height of the scheme
- Impact on amenity, such as noise, dust, fumes generated by the proposal
- Potential loss of a valued local service or use, such as a shop
- Effect on wildlife, listed buildings (including neighbouring properties) trees etc

## **Non-material planning considerations which cannot be taken into account, include:**

- Who the applicant is/the applicant's background
- Loss of views
- Loss of property value
- Loss of trade or increased competition
- Strength or volume of local opposition
- Construction noise/disturbance during development
- Fears of damage to property
- Maintenance of property
- Boundary disputes, covenants or other property rights
- Rights of way
- Personal circumstances are generally not a material planning consideration
- Private issues between neighbours such as land covenants, land and boundary disputes
- Competition between rival businesses
- Party wall disputes and fire escape matters
- Problems while construction works are being carried out, such as noise, dust and disturbance by construction vehicles
- Loss of a private view
- Conjecture on future schemes

## **CONCLUSION**

Planning is nuanced, each application is given due consideration and scrutiny, ultimately decisions are formed by application of the considerations within the planning documents and it can be a matter of subjective opinion which policy should have more weight than another. In extreme cases, items will be aired at the Planning Committee for group scrutiny.

The quality of objections exceeds the quantity in importance, however the number of submissions does give the Planning Officer an indication of local feeling. Robust objections will refer to policies within the National Planning Policy Framework (NPPF), the Local Plan and the Neighbourhood Development Plan (NDP) if there is one. The NPPF takes precedence over the Local Plan.

## **Understanding pressures on planning officers can help**

The Council planning department is under considerable strain. A sharp rise in the number of applications, loss of staff, tightening of budgets and the streamlining of the validation process has released a surge of applications ready for consultation (applicants can now upload documents onto the planning portal themselves). Planning officers face an administrative battle they can't possibly win.

It is not unusual for them to have a workload of over 50 current planning applications (about 100 as at September 2021). Each will require:

- validation of the application;
- identify and carry out a consultation;
- undertake a site visit;
- make an assessment;
- negotiate changes with the applicant;
- re-consult;
- make a further assessment, including the wording of planning conditions (that must be Necessary, Relevant to Planning, Relevant to the Development, Enforceable, Precise, Reasonable, etc); and
- negotiate s106 agreements.

Officers are also responsible for reading and responding to any comments and/or telephone messages by objectors, as well as taking on board all of the consultee comments/recommendations, before writing a detailed report identifying what policies the application meets or doesn't meet, responding to objections, and making a decision on the proposal. Issues are therefore inevitable.

Planning officers often find themselves in no-win situations. If an application is refused, objectors will be relieved - or vice versa. Either scenario could lead to further work such as preparation for a committee hearing, an official appeal, deferment or site inspection briefings.

The rise of private planning consultants is a result of the increasing pressure on planning departments. Planning applications can be submitted by anyone, and sometimes the quality is not sufficient and more work needed in order to make a decision. A professional third party means that quality can be significantly improved, a good private planning consultant will be able to advise on whether a proposal or an objection is likely to succeed.



## REFERENCES

[National Planning Policy Framework](#)

[Cotswold District Local Plan \(2011 to 2031\)](#)

Neighbourhood Development Plan (if your Community has one)

[The Town & Country Planning Act](#)

These documents are extensive, think of them as reference guides. Be sure to look at the appendices, especially the [Cotswold Design Code](#) which offers design guidelines for new build, extensions etc.

## **PLANNING COMMITTEE PROTOCOL & SCHEME OF DELEGATION**

The current administration updated the Planning Committee protocol and the Scheme of Delegation in November 2020. Please see the notes about this below. This is important. It has a very serious effect on whether the application might be put before the Planning Committee or not.

The most important points to be aware of is that point three below, referrals to the planning committee must be made on *material planning considerations* and could be rejected by 'the panel' which was made up of the Chair and Vice-Chair of the Planning Committee, Senior Planning Officers and the Council Solicitor. They hold a monthly meeting to decide which applications qualify for a hearing at the Planning Committee.

There are ongoing concerns about the openness and transparency of this protocol. Parishes Councils should be informed of ongoing updates.

Revisions proposed and approved at council include:

- Time management - public speaking limit of three minutes
- All members (councillors) must have basic training
- Referrals must be made on material planning considerations and could be rejected by the Chair/Vice- Chair\*
- Ward members should not represent the views of their town/ parish council during public speaking \*

There are especially concerns about the \* points above. Planning is nuanced, material planning considerations considered by one person may not be deemed so by another. Officers' recommendations are sometimes overturned at the Planning Committee; under this revised mechanism, they may not get a hearing.

## Background

‘Planning Training for Parish & Town Councils’ training held on Thursday 26th November 2020 - Recording of the meeting:

<https://220ict.webex.com/220ict/ldr.php?RCID=d35e79b3bbb947bbb0dd76012662ec51>

To access the meeting you will need to enter the following password (which is case sensitive) - rRcj62eA

The Planning Committee and Planning Officers follow a protocol which sets guidance for determining planning applications, specifically those which are referred to the Planning Committee. As a quasi-judicial committee its members are required to be non-partisan and represent the whole District. Therefore in our determining applications we have to consider not only the plan before us but that 80% of the District is in the AONB.

144 Conservation areas  
4,991 listed buildings  
239 Scheduled ancient monuments  
32 registered historic parks and gardens  
37 Sites of special scientific interest  
260 locally designated key wildlife sites

All of this in an area of 450 sq. miles with a population of around 84k in the towns, villages, hamlets and we mustn't forget the 40 sq miles of Cotswold Water Park which is not designated AONB but along with nature conservation it supports 960 holiday homes. All of these make up our policies in our Local Plan alongside the National Planning Policy Framework and all of these policies have to be considered by members alongside the Planning application before them and the impact it may or may not have in its environment and to its location.

The Local Plan and Government housing requirements and the need for at least a five year land supply - it is no wonder that the Planning Committee sees a range of applications from large strategic developments to small extensions,

barn conversions to garden sheds. Whatever the application decisions have to be made based on material planning considerations, guided by Local Plan Policies, the NPPF, Town and Country Planning Acts and the Council's own relevant adopted strategies such as Climate Emergency and Green Economic Growth.

The Committee also has the power to authorise the enforcement of planning control, either remedial action or prosecution to achieve compliance. The Planning Committee is made up of 11 Members, all of whom are trained and are given ongoing training, before sitting on the committee and some have many years of experience.

Aside from the committee members the Council trains all Members in planning which enables them to sit on the committee as substitutes if necessary. Members are also invited to attend the short ongoing training sessions. The training also gives the Ward Members guidance in helping their Town or Parish Councils with applications in their area and advises them whether an application could be determined by the Planning Committee.

Your Ward Member is the link between you and the Case Officer. A dialogue between you all can help resolve issues with an application. The Case Officer can voice your concerns to the applicant who may address the issues; all this should be done well before the Case officer has written their report.

The decision to bring an application for determination by the committee can only be made after the Ward Member has received the Officer's report and recommendation. The referral must be emailed to the Case Officer and give the material planning reasons and policies which support the referral. As you have heard earlier volume of objectors/supporters are not material reasons.

The Committee is supported by the Council's Solicitor, a Lead Planning Officer, the application's Case Officer and consultees as required, e.g. Conservation, heritage, Environmental Health. Occasionally we ask statutory consultees such as Highways come to explain their decision on an application and be available for questions by the committee.

Public speakers can address the committee following the application briefing by the Case Officer. These are the Town or Parish Council, Objector, Supporter, Agent or Applicant. The Ward Member who referred the application can also

speak both before and after the Committee has questioned and debated the application but before they have voted.

If the Committee decides to overturn the Officer's recommendation from Approval to Refusal then we have to be specific about the planning reasons. What is the precise nature of the unacceptable impact supported by evidence and/or technical justification.

- What and to whom
- Evidence base for the harm - is harm outweighed by the benefit?
- Lack of evidence that the proposal is acceptable
- What is the policy basis - how compliance with policy is shown
- Do all the conditions meet the tests of NPPF and Planning Practice Guidance

The Committee can also defer an application if they feel they require further information following questioning and comments, or add Conditions to an application.

The majority of planning applications are dealt with by the Councils scheme of delegation. 97% of applications do not come to the Committee.

Below is a short overview of a paper which I presented at a Council meeting, on revision of the Scheme of Delegation. It may help you understand the often difficult position Ward Members find themselves in when considering controversial applications in their Wards.

A ward member may also serve on their Parish Council and they may sit on the Council's Planning Committee; it is imperative that they come to the Committee with an open mind and not be considered to have predetermined an application by being significantly involved as an objector or supporter of an application.

Suggested words for such members to their Town or Parish councils are:- While I will consider this matter as a Member of this Town/Parish Council, I am also on the Planning and Licensing Committee of CDC 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 CDC's Planning and Licensing Committee as I will at this meeting.

With regard to public speaking the Ward Member who refers an application to the Planning Committee cannot also speak on behalf of the Town or Parish Council, if the T or P are unable to attend the meeting their written submission can be read out by a member of democratic services.

**Ward Members are encouraged to actively engage with the Case Officer early on in the planning process to try and resolve any issues arising.**

The biggest change to the Scheme of delegation is the referral process. If, following reading the Case Officer's report and recommendation, the Ward Member wishes to refer the application for determination by the Planning Committee they then must send in an email with relevant policies and material planning reasons as to why they do not agree with the Case Officer's recommendation. The referrals will be seen by a panel made up of the Chair and Vice Chair of the Planning and Licensing Committee and Lead Planning Officer who will determine which applications will proceed to Committee. Also in attendance at that meeting will be the Council's solicitor and the relevant Case Officers. Following this meeting the Committee Agenda will be created, distributed and all relevant parties notified.

Other Applications which are determined by the Planning Committee are Member's own applications. Applications submitted by the Council and applications submitted by Officers.

For applications that are not referred to the Committee but have one or more objections, the Case Officer sends their report and recommendation to the Ward Member and asks for delegated authority to proceed.

If the Committee decides to overturn an Officer's recommendation it is not necessarily the end of the process. The applicant has the right to appeal which is costly and prolongs the process.