

LEICESTERSHIRE COUNTY COUNCIL

GUIDANCE FOR THE NOMINATED MEMBER AND NOMINATED OFFICER

Assessment of whether a Schedule 2 or Own-Interest application should be referred to the Development Control and Regulatory Board under the national scheme of delegation for planning functions

1. PURPOSE AND STATUS

This guidance is intended to assist the Nominated Member and Nominated Officer in applying the referral test for planning applications that are capable of being referred to the Development Control and Regulatory Board (“DCRB”) under the Council’s Planning Scheme of Delegation, including Schedule 2 applications and Own-Interest applications. It is intended to promote consistency, transparency and lawful decision-making. It should be read alongside the Council’s Constitution, the Council’s Planning Scheme of Delegation, the Planning Committee/DCRB procedures and the statutory guidance on the national scheme of delegation. The national framework requires planning committees to focus on the proposals that matter to an area, with decisions on other, often more minor and technical cases made by officers, and proceeds on the basis that officer delegation is the default position unless the relevant test for referral is met.

References in this guidance to the 2026 Regulations include those Regulations as amended, re-enacted or replaced from time to time, and references to statutory guidance include any statutory guidance issued or revised in connection with those Regulations.

For the purposes of this guidance:

- “Nominated Member”, “Nominated Officer”, “Own-Interest application”, “Schedule 1 application” and “Schedule 2 application” have the meanings given by the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (“the 2026 Regulations”).
- The “**Chief Planning Officer**” shall mean “the officer designated by the Director of Growth, Environment and Transport as the Council’s chief officer responsible for the exercise of planning functions for the purposes of the Planning Scheme of Delegation, or any officer authorised to act in that capacity”.
- The **Nominated Member** will be the Chair of DCRB. Where the Chair is unavailable, has an interest in the application, is the applicant, or is otherwise unable properly to participate in the referral decision, the Vice Chair of DCRB will act as substitute Nominated Member. Where the Vice Chair is also unavailable or unable properly to participate, the relevant DCRB Spokesperson, or such other trained member of DCRB, will act as substitute Nominated Member.

- The **Nominated Officer** shall be the Chief Planning Officer or such other officer authorised to act in that capacity in accordance with the Council's planning delegation arrangements.

2. CORE RULE

A Schedule 2 application should be referred to DCRB **only** where the Nominated Member and Nominated Officer agree that referral is necessary and that at least one of the statutory referral criteria is met. If they do not agree that referral is necessary, the application remains for determination under delegated powers.

An Own-Interest application may be referred to DCRB where the Nominated Member and Nominated Officer agree that referral is appropriate, having regard to the statutory guidance, the nature of the Council's interest, the nature and scale of the development, and the need for transparency and public accountability.

For Schedule 2 applications, the relevant test is, in the view of the Nominated Member and Nominated Officer, whether the proposal raises:

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

3. OVERRIDING PRINCIPLES

- Delegation is the default position unless the referral test is positively met, or, in the case of an Own-Interest application, referral is justified having regard to the statutory guidance and the need for transparency and public accountability.
- The question is not whether the application is controversial, unpopular, politically sensitive, or has generated local correspondence. The question is whether it raises issues of the kind and degree described in the test, or whether, in an Own-Interest application, the Council's interest and the need for openness, transparency and public accountability justify DCRB referral.
- The exercise must be based on planning relevance, not political preference or administrative convenience.
- Reasons must be recorded succinctly and clearly on the file and in the delegated or DCRB report.
- Any improper lobbying, pressure or attempt to influence the exercise of judgement outside the proper process of the Nominated Member, Nominated Officer or other officer exercising delegated planning functions should be reported to the Monitoring Officer. Transparent and recorded member representations addressing the statutory referral criteria may be taken into account but must not be treated as determinative.

4. MATTERS WHICH MUST NOT BE TREATED AS REASONS FOR REFERRAL

As a matter of local good governance, the following should not, without more, be treated as indicators of “significance”:

- the volume of objections or support;
- a request from a local member, parish/town council alone;
- the fact that the application is politically controversial;
- pressure arising from local campaigns or publicity;
- whether the committee agenda is light or heavy;
- the historical behaviour or reputation of the applicant or developer;
- pressure exerted on the Chair / Nominated Member or senior officers and any substitutes.

These are all matters which risk introducing non-planning considerations or political expediency into the process. They may, where relevant, trigger consideration of whether the referral test should be applied, but they do not themselves satisfy the test for referral.

5. SUGGESTED TWO-STAGE LOCAL ASSESSMENT

STAGE 1 – ADMINISTRATIVE / LEGAL GATEWAY CHECK

- Is the application Schedule 1? If yes, it must be delegated.
- Is it Schedule 2? If yes, apply the significance test below, where the application has been brought forward for consideration by the Nominated Member and Nominated Officer under the Council’s local arrangements
- Is it an Own-Interest Application? If yes, apply the Council’s own-interest criteria and consider whether openness, transparency, public accountability, the nature of the Council’s interest, the identity of the applicant or interested person, and the nature and scale of the development justify DCRB referral.

The Council may determine locally whether all Schedule 2 applications, or only specified categories of Schedule 2 applications, are brought forward for consideration by the Nominated Member and Nominated Officer. A request from a local member, parish council, town council or other consultee may trigger consideration of whether the referral test should be applied, but does not itself require referral to DCRB.

STAGE 2 – SIGNIFICANCE ASSESSMENT

Ask the following questions in order:

A. Economic significance

Does the proposal raise one or more of the following economically significant issues for the local area:

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- major implications for the delivery of strategic infrastructure or public services;
- substantial implications for mineral, waste or transport capacity across more than one locality;
- significant implications for employment land, strategic freight, or the operation of a key public facility;
- a development outcome with significant consequences extending materially beyond the immediate site.

B. Social significance

Does the proposal raise one or more of the following socially significant issues for the local area:

- clear significant implications for the operation, accessibility or resilience of important community services;
- significant effects on a settlement or wider community rather than only on immediately adjoining occupiers.

C. Environmental significance

Does the proposal raise one or more of the following environmentally significant issues for the local area:

- significant implications for environmental effects which are central to the planning merits of the case;
- strategic or area-wide implications of significance for landscape, ecology, traffic, amenity, flood risk, heritage or cumulative effects;
- environmental impacts where the significance extends beyond ordinary site-specific effects commonly addressed through routine delegated decisions.

D. Significant planning matters

Does the proposal raise one or more of the following significant planning matters having regard to the development plan and other material considerations:

- a genuinely significant issue about the interpretation, application or weight of development plan policy;
- tension between competing development plan policies or a material planning judgement of unusual weight or difficulty;
- a proposal that appears to raise a substantial question about whether the development plan should be departed from;
- a case where a material planning objection raises issues of real substance rather than routine or repetitive points, including an unresolved objection from a statutory consultee which raises a material planning issue of substance and is not capable of being satisfactorily addressed through conditions, obligations or further information.

E. Own-interest applications

For Own-Interest applications, the Nominated Member and Nominated Officer should consider whether referral is appropriate having regard to the statutory guidance and the Council's own-interest criteria. Relevant considerations may include the nature of the Council's interest, whether the applicant or interested person is the authority, a member or an officer, the nature and scale of the development, the degree of public interest, and whether DCRB determination is appropriate to secure transparency and public accountability.

6. WORKING THRESHOLD FOR REFERRAL

For Schedule 2 applications, referral should occur only where, having reviewed the officer summary and relevant papers, the Nominated Member and Nominated Officer are both satisfied that the application raises planning, economic, social or environmental issues of more than routine site-specific importance, such that member determination is reasonably necessary in the public interest.

For Own-Interest applications, referral should occur where the Nominated Member and Nominated Officer are satisfied that DCRB determination is appropriate having regard to the statutory guidance, the Council's own-interest criteria, the nature of the Council's interest and the need for transparency and public accountability.

7. SUGGESTED RECORDING TEMPLATE

A one-page referral assessment form should be completed by officers and signed off by the Nominated Officer and Nominated Member.

A. Basic information

- Application reference
- Site
- Description
- Application type
- Schedule 1 / Schedule 2 / Own-Interest
- Officer preparing summary
- Date

B. Initial classification

- Is this a Schedule 1 application? Yes / No
- Is this a Schedule 2 application? Yes / No
- Is this an Own-Interest Application? Yes / No

C. Significance checklist

- Economic significance to the local area - Schedule 2 applications
- Social significance to the local area - Schedule 2 applications

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- Environmental significance to the local area - Schedule 2 applications
- Significant planning matters having regard to the development plan / material considerations - Schedule 2 applications
- Own-Interest considerations, including the nature of the Council's interest, transparency and public accountability

D. Matters disregarded

- Confirm that the decision has not been based on amount of local correspondence alone;
- Confirm that the decision has not been based on local member request alone;
- Confirm that the decision has not been based on media attention / publicity;
- Confirm that the decision has not been based on DCRB workload;
- Confirm that the decision has not been based on improper lobbying, pressure, political expediency or any attempt to influence the outcome outside the proper process;
- Confirm that the decision has not been based on historic views about the applicant / developer.
- Confirm that any member, parish council, town council or consultee request has been treated only as a trigger for consideration, and not as a reason requiring referral;
- Confirm that, where the application remains delegated, no arrangement has been made which limits the discretion of the officer responsible for determining the application.

E. Outcome

- **Referred to DCRB**

Or

- **Remains delegated**

(A gateway decision may be revisited before determination where material further information, amendments to the proposal, changes in consultee position, or other new material planning considerations arise after the original gateway decision. This may include:

- (a) an application previously referred to DCRB remaining delegated where the issue which justified referral no longer meets the statutory referral criteria; or
- (b) an application previously remaining delegated being referred to DCRB where new matters of economic, social or environmental significance to the local area, or significant planning matters having regard to the development plan and other material considerations, are raised later in the application process and the Nominated Member and Nominated Officer agree that the statutory referral criteria are met.

Any revised gateway decision, the reasons for it, and the material change in circumstances relied upon must be recorded).

F. Recorded reason

If referred:

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“This is a Schedule 2 application. It is being reported to the Development Control and Regulatory Board because the Nominated Member and Nominated Officer agree that referral is necessary as the application raises [insert succinct reason(s), by reference to economic, social or environmental significance to the local area, or significant planning matters having regard to the development plan and other material considerations]”

OR

“This is an Own-Interest Application. It is being reported to the Development Control and Regulatory Board because the Nominated Member and Nominated Officer agree that referral is appropriate having regard to [insert succinct reason(s), for example the nature of the Council’s interest, the nature and scale of the development, transparency and public accountability].”

If delegated:

“This is a Schedule 2 application. It will be determined under delegated powers because the Nominated Member and Nominated Officer do not agree that referral to the Development Control and Regulatory Board is necessary. The application does not raise issues of sufficient economic, social or environmental significance to the local area, nor significant planning matters of a kind requiring member determination.”

OR

“This is an Own-Interest Application. It will be determined under delegated powers because the Nominated Member and Nominated Officer do not agree that referral to the Development Control and Regulatory Board is appropriate, having regard to the statutory guidance, the Council’s own-interest criteria, the nature of the Council’s interest, the nature and scale of the development, and the need for transparency and public accountability.”

8. OPERATIONAL SAFEGUARDS

- **Officer summary first** – every candidate case should come to the Nominated Member and Nominated Officer with a short, written officer note identifying the possible basis for referral, including whether the case is a Schedule 2 application or an Own-Interest application and which test is being applied.
- **Member representations and lobbying** — transparent and recorded representations may be considered where they address the relevant referral criteria. However, informal lobbying, pressure on the Nominated Member or Nominated Officer, or attempts to influence the planning merits outside the proper process should be logged and referred to the Monitoring Officer where appropriate.
- **Other member involvement** – other members may submit written planning reasons as to whether a Schedule 2 application should be considered for referral. Their views may be taken into account but are advisory only. The Nominated Member and Nominated Officer must apply the relevant test themselves and must not delegate, fetter or abdicate their judgement to other members or to any majority view.

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- **Officer discretion** — nothing in this guidance authorises members, panels or any other persons to direct, predetermine or otherwise limit the discretion of the planning officer responsible for determining an application under delegated powers.
- **Prompt, recorded decision** – the referral decision should be recorded on the file with the date and the names of both decision-makers.
- **Substitute arrangements** – substitutes should be activated where one of the nominated roles is unavailable, to avoid delay or single points of failure.
- **Annual review** – the Council should periodically review referral decisions to check consistency, the operation of the Schedule 2 and Own-Interest tests, the treatment of member requests, and any issues arising from lobbying or member involvement, and refine the written guidance if needed.

SOURCES INFORMING THIS GUIDANCE:

This guidance has been informed by:

- (1) POS Good Practice Guidance Note Appendix A: Planning Scheme of Delegation (June 2026)
- (2) MHCLG statutory guidance “Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England” published on 1 June 2026