

## Full Council

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<b>Date:</b>	<b>17 March 2015</b>
<b>Title:</b>	<b>Predetermination Guidance</b>
<b>Contact Officer:</b>	<b>Helen Stewart, Town Clerk</b>

### **Purpose of the Report**

To provide some basic guidance on predetermination.

### **Action Required**

No action is required. Further information or guidance is always available by contacting the District Council's Monitoring Officer.

### **Predetermination**

Predetermination or bias is where a councillor is closed to the merits of any arguments relating to a particular issue, such as an application for planning permission, and makes a decision on the issue without taking them into account.

### **Background**

The Localism Act 2011 abolished the concept of predetermination whereas before the Act, councillors may have found themselves elected on their very vocal campaigning against a controversial development, only to find that further down the line their campaigning excluded them from taking part in making the decision.

The Localism Act enables councillors to fully engage with applicants. Councillors can engage, irrespective of committee membership, without fear of losing their vote. The reverse of this is that councillors can also actively campaign against an application and still be able to sit on the committee when that application is determined.

But councillors still need to be careful. The abolition of predetermination does not remove the legal obligation that planning applications should be determined in accordance with the development plan, "unless material considerations indicate otherwise."

And despite the removal of predetermination councillors must still be open minded in determining planning applications. The difference is that the fact that they may have campaigned against a proposal will not be taken as proof that they have a closed mind. Councillors cautiously have to find a balance between engaging with developers and residents whilst making sure they appear to keep an open mind when it comes to decision making.

Some officers may still hide behind 'best practice' (no meeting without an officer present) and try to control engagement but for residents this means councillors cannot refuse to engage with them because they don't want to be seen as "liaising with the enemy", choosing to hide behind "predetermination".