

Meeting Full Council
Portfolio Area Environment and Regeneration
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NATIONAL SCHEME OF DELEGATION – PROPOSED AMENDMENTS TO THE CONSTITUTION

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1 PURPOSE

1.1 This report proposes amendments to the Council's Constitution to ensure that it reflects and is compliant with the new National Scheme of Delegation ("the Scheme") which the Government is introducing via the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 ("the Regulations").

1.2 All local planning authorities are expected to have the new arrangements in place for 31st October 2026. Decisions taken on or after that date must be taken in line with the Regulations and if not, could be considered by the Courts to have been unlawfully taken.

This report sets out the changes the Scheme introduces and outlines the process for Member referral of Schedule 2 applications and the process the Council will

adhere to when recording decisions for proposals passing through the Gateway Test.

2 RECOMMENDATIONS

That Council:

1. Approve the amendments to the Constitution as set out in this report so that they reflect the Regulations and associated guidance (Appendix 1);
2. Agree that the amendments to the Constitution relating to the Scheme will take effect from 31st October 2026 to coincide with the implementation of the Regulations
3. Delegates authority to the Borough Solicitor/Monitoring Officer to update the Constitution in respect of legislative changes in accordance with the Regulations.
4. Agree that the amendments specified in paragraph 1 above replaces the outdated Scheme of Delegation 2007 in (Appendix 2).

3 BACKGROUND

- 3.1 The Planning and Infrastructure Act 2025 inserted provisions into the Town and County Planning Act 1990 enabling the Regulations to establish the Scheme specifying which planning decisions must be delegated to officers and which may be referred to committee. They also limit planning committees to 13 members. The Council must update its constitutional arrangements by 31 October 2026 to comply with the Regulations.
- 3.2 Historically, each council determined through its Constitution and sub delegations, which applications were decided by officers and which were referred to committee. Under the new Regulations, this discretion is largely removed and replaced by a nationally prescribed framework. The revised Scheme separates routine and technical decisions from matters requiring Member oversight. It clarifies responsibility for planning and related regulatory functions while maintaining safeguards through published criteria, professional judgement, legal oversight and established governance procedures.

4 REASONS FOR RECOMMENDED COURSE OF ACTION

- 4.1 These reforms are intended to create greater consistency across England and ensure that planning committees focus on the most significant planning decisions, while routine applications are determined by professional planning officers. This will support timely and consistent decisions. Council approval is

required to amend the Constitution so that it reflects the Regulations and so that it remains lawful, current and operationally effective. The following provides an overview of the main changes being made:

Development management and committee referrals

- 4.2 The Scheme places applications into two broad categories: Schedule 1 applications and Schedule 2 applications.
- 4.3 Schedule 1 applications must be determined by officers and will not be eligible for Planning Committee determination. Schedule 1 generally covers routine, smaller-scale and technical application types. Examples include householder development, minor residential development generally involving up to nine dwellings on sites below 0.5 hectares, minor commercial development, most reserved matters approvals not linked to very large outline schemes, discharge of conditions, prior approvals, non-material amendments, certificates of lawfulness, biodiversity gain plans and similar matters.
- 4.4 Schedule 2 applications are generally larger, more complex or more sensitive. These may include proposals outside the Schedule 1 categories, listed building consent applications, advertisement consent applications, works to protected trees, and certain reserved matters or variation applications associated with larger schemes. Schedule 2 applications are also subject to a presumption in favour of being determined by officers but may be referred to the Planning and Development Committee where the Nominated Officer and Nominated Councillor agree that the statutory referral test is satisfied.
- 4.5 Any planning matters which fall outside of Schedule 1 and Schedule 2 applications are delegated to the Director of Planning and Regulation in the Constitution, who may further delegate these powers to a suitably qualified and/or experienced officers as set out in sub delegation contained in the Planning Scheme of Management which sits outside of the Constitution and published on the council's website for transparency purposed.
- 4.6 The Planning Scheme of Management will also set out how a member can make a referral under the gateway test (referred to below) in respect of Schedule 2 applications.

The new gateway test

- 4.5 The national criteria state that a Schedule 2 application may only be referred to the Planning and Development Committee where it raises one, or both, of the following:
 - a significant economic, social or environmental issue for the local area, or
 - a significant planning issue having regard to the development plan and other material considerations.

- 4.6 Referral of an application to Planning and Development Committee must be agreed by a Nominated Officer and the Nominated Councillor. It is proposed that the Nominated Officer is the Director of Planning and Regulation (or the Head of Planning and Enforcement in their absence) and the Nominated Councillor is the Chair of Planning Committee (or the Vice Chair in their absence). It will be the case that any Member can seek a referral of any Schedule 2 application for consideration by the Nominated Officer and Nominated Member. A process note setting out how this regime will operate will be provided to Members.
- 4.7 With respect to triaging applications when it comes to referring applications to the Planning and Development Committee, the Government's Statutory Guidance: Planning Committees and the National of Delegation of Planning Functions: Guidance for local planning authorities (paragraph 14) states "*Where local planning authorities anticipate that there may be a significant number of Schedule 2 or own-interest applications which may need to be considered for referral to committee they may wish to put in place a triage system to ensure that the nominated officer and nominated member of the committee are not overwhelmed and to avoid any unnecessary delays in planning decision making*".
- 4.8 Taking into consideration the above, it is proposed that a triage system for Schedule 2 applications and self-interest applications is introduced. This is to ensure that the nominated officer and nominated member are not overwhelmed by the volume of applications and to avoid unnecessary delays in planning decision making. In addition, it will ensure that the Planning and Development Committee can focus on large scale, strategically important applications, rather than having to deal with small scale applications which are generally technical in nature.

Own-interest and conflict cases

- 4.9 Applications involving the Council's own interests, or applications made by or on behalf of the Council, councillors or senior officers, will be subject to a different process to maintain transparency.
- 4.10 Broadly speaking the Council's own major applications (Schedule 2) will continue to be determined by the Planning and Development Committee where the application raises an economic, social or environmental issue of significance to the local area or raises a significant planning matter having regard to the development plan and any other material considerations.
- 4.11 In addition to the above, where the application is for a land sale and the landowner is the Council and not the applicant, the application shall be referred to the Planning and Development Committee for its decision where 5 or more representations have been received which raise material planning matters that

advocate a different outcome (i.e. approval / refusal) than that set out in the Officer's recommendation. This reflects the existing scheme of delegation which is currently in place and ensures members still have oversight of such applications.

- 4.12 Turning to the triage process for self-interest applications, it is recommended that the majority of all Schedule 1 applications be determined under delegated powers as set out below:

Schedule 1 Functions	
Application categories	Self-Interest applications (Regulation 6) – Suggested Triage.
householder development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)	Delegated
minor commercial development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)	Delegated
minor residential development (consisting of up to 9 new dwellings (flats or houses) on a site smaller than 0.5 hectares and other minor development in relation to flats)	Delegated
where it is not related to a phase of development in an outline planning permission, reserved matters approvals (applications under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015)	Delegated

Note: Reserved matters approval in respect of an outline planning permission other than a large outline phase permission (i.e. one which grants permission for development involving the provision of at least 500 dwellings or a building or buildings where the floorspace to be created by the development is 50,000 square metres or more) (applications under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015)	
discharge of conditions (applications under Article 27(1) of Town and Country Planning (Development Management Procedure) (England) Order 2015)	Delegated
prior approval for permitted development rights (applications under Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015)	Delegated
permission in principle (as referred to in section 58A of the Town and Country Planning Act 1990)	Delegated
where a local planning authority considers a planning obligation is connected to a Schedule 1 application, requests to agree to modify or discharge a planning	Delegated

obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)	
where local planning authority considers a planning obligation is connected to a Schedule 1 application, modification or discharge of a planning obligation (applications under section 106A(3) of the Town and Country Planning Act 1990)	Delegated
non-material changes to planning permission or permission in principle (applications under section 96A(4) of the Town and Country Planning Act 1990)	Delegated
certificates of lawfulness of existing use or development (under section 191(1) of the Town and Country Planning Act 1990)	Delegated
certificates of lawfulness of proposed use or development (under section 192(2) of the Town and Country Planning Act 1990)	Delegated
biodiversity gain plan (duty to approve under paragraph 14 of Schedule 7A to the Town and Country Planning Act 1990)	Delegated
Certificates of appropriate alternative development	Delegated

(applications under section 17 of the Land Compensation Act 1961)	
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4.13 Turning to the triage process for self-interest applications covered under Schedule 2, this has been set out in further detail in the table below. In addition, this table also sets out the types of applications and circumstances in which they may be referred to the planning and development committee for its decision:

Schedule 2 Functions	
Application categories	Self-Interest applications (Regulation 6) – Suggested Triage.
A local authority considers that the application for planning permission (Schedule 1) is connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent (See paragraph 19 of the guidance)	Householder applications:- Delegated All other Schedule 1 applications:- Referral to committee where: 1) the application raises a significant planning matter having regard to the development plan and any other material considerations. 2) the application raises an economic, social or environmental issue of significance to the local area.
the application is made under section 73A of the Town and Country Planning Act 1990 (Relating to a Schedule 1 application)	Householder applications:- Delegated All other Schedule 1 applications:- Referral to committee where: 1) the application raises a significant planning matter having regard to the development plan and any other material considerations.

	2) the application raises an economic, social or environmental issue of significance to the local area.
applications for planning permission which are not householder, minor commercial or minor residential applications	Major applications All major applications submitted by or on behalf of the Council shall be determined by the Planning and Development Committee by default. Other applications: Referral to committee where: 1) the application raises a significant planning matter having regard to the development plan and any other material considerations. 2) the application raises an economic, social or environmental issue of significance to the local area.
applications for planning permission which would otherwise fall into Schedule 1 but are connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent	Householder applications:- Delegated All other Schedule 1 applications:- Referral to committee where: 1) the application raises a significant planning matter having regard to the development plan and any other material considerations. 2) the application raises an economic, social or environmental issue of significance to the local area.

applications to develop land without compliance with conditions previously attached in respect of which the previous planning permission was a Schedule 2 planning permission (under section 73(1) of the Town and Country Planning Act 1990)	Major applications All major (without compliance of conditions) applications submitted by or on behalf of the Council shall be determined by the Planning and Development Committee by default. Other applications: Referral to committee where: 1) the application raises a significant planning matter having regard to the development plan and any other material considerations. 2) the application raises an economic, social or environmental issue of significance to the local area.
applications for development which has already been carried out (under section 73A(1) of the Town and Country Planning Act 1990)	Referral to committee where: 1) the application raises a significant planning matter having regard to the development plan and any other material considerations. 2) the application raises an economic, social or environmental issue of significance to the local area.
where it is related to a large outline planning permission, applications for reserved matters approvals (under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015)	Referral of Reserved Matters Applications to committee where: 1) the application raises a significant planning matter having regard to the development plan and any other material considerations.

Definition of large outline reserved matters (defined by the Regulations): One which grants permission for development involving the provision of at least 500 dwellings or a building or buildings where the floorspace to be created by the development is 50,000 sq.m or more.	2) the application raises an economic, social or environmental issue of significance to the local area.
where a local planning authority considers a planning obligation is connected to a Schedule 2 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)	Referral to planning committee where the obligation relates to certain obligations e.g., affordable housing, infrastructure delivery, financial obligations etc & the deed of variation raises a significant planning matter having regard to the development plan and any other material considerations; or The Deed of Variation raises an economic, social or environmental issue of significance to the local area. Otherwise, delegated to officers.
where a local planning authority considers a planning obligation is connected to a Schedule 2 application, application for modification or discharge of a planning obligation (under section 106A(3) of the Town and Country Planning Act 1990)	Referral to planning committee where the application relates to certain obligations e.g., affordable housing, infrastructure delivery, financial obligations etc & the deed of variation raises a significant planning matter having regard to the development plan and any other material considerations; or The Deed of Variation raises an economic, social or environmental issue of significance to the local area.

	Otherwise, delegated to officers.
applications for listed building consent (under section 10 of the Planning (Listed Buildings and Conservation Areas) Act 1990)	Delegated
applications for the variation or discharge of conditions of listed building consent (under section 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990)	Delegated
applications for advertisement consent (under regulation 9 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007)	Delegated
applications for consent under tree preservation orders (under regulation 16 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012)	Delegated

- 4.14 When it comes to standard Schedule 2 applications (Non self-interest), the triage process for such applications is outlined below. In addition, the table also sets out what applications will have to go through the Gateway Process as to whether or not the application is referred to the Planning Committee for its decision:

Schedule 2 Functions

Application categories	None Self-interest – Triage (See para 14 of the guidance relating to triage of Schedule 2 apps)
A local authority considers that the application for planning permission (Schedule 1) is connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent (See paragraph 19 of the guidance)	TRIAGE
the application is made under section 73A of the Town and Country Planning Act 1990 (Relating to a Schedule 1 application)	TRIAGE
applications for planning permission which are not householder, minor commercial or minor residential applications.	GATEWAY TEST
applications for planning permission which would otherwise fall into Schedule 1 but are connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent	TRIAGE

applications to develop land without compliance with conditions previously attached in respect of which the previous planning permission was a Schedule 2 planning permission (under section 73(1) of the Town and Country Planning Act 1990)	GATEWAY TEST
applications for development which has already been carried out (under section 73A(1) of the Town and Country Planning Act 1990)	GATEWAY TEST
where it is related to a large outline planning permission, applications for reserved matters approvals (under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015) Definition of large outline reserved matters (defined by the Regulations): One which grants permission for development involving the provision of at least 500 dwellings or a building or buildings where the floorspace to be created by the development is 50,000 sq.m or more.	GATEWAY TEST

where a local planning authority considers a planning obligation is connected to a Schedule 2 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)	GATEWAY TEST
where a local planning authority considers a planning obligation is connected to a Schedule 2 application, application for modification or discharge of a planning obligation (under section 106A(3) of the Town and Country Planning Act 1990)	GATEWAY TEST
applications for listed building consent (under section 10 of the Planning (Listed Buildings and Conservation Areas) Act 1990)	TRIAGE
applications for the variation or discharge of conditions of listed building consent (under section 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990)	TRIAGE
applications for advertisement consent (under regulation 9 of the Town and Country Planning (Control of	TRIAGE

Advertisements) (England) Regulations 2007)	
applications for consent under tree preservation orders (under regulation 16 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012)	TRIAGE

- 4.15 Details of the proposed amendments to the Constitution can be found at Appendix 1 along with details of the proposed triage process for Schedule 2 and self-interest applications.

5 GOVERNANCE AND IMPLICATIONS

- 5.1 In order to comply with legislation, the Council will need to update its Constitution. It is proposed that this should include identifying the Director of Planning and Regulation as the Nominated Officer, identifying the Chair of Planning Committee (or Vice Chair in their absence) as the Nominated Councillor, and establishing a clear record of referral decisions and the reasons for them. If an application that must be delegated is instead determined by Planning Committee, the decision could be vulnerable to legal challenge and may be quashed.

8 PLANNING CODE OF PRACTICE AND PROCEDURES

- 8.1 Consequential revisions will cover application triage, statutory referral routes, public speaking, Member training, technical briefings, lobbying, conflicts of interest, applications involving Members or officers, standards of conduct, and unreasonable or vexatious behaviour. These changes are intended to keep committee procedures transparent, proportionate and legally robust.

9 IMPLICATIONS

Financial and resources

- 9.1 No significant direct budget growth is presently anticipated. Implementation will require officer time for constitutional amendments, process mapping, training, briefings, guidance and published information. These costs should be managed within approved budgets unless a separate decision is required. Clearer delegation may improve use of officer and committee resources over time.

Legal and governance

- 9.2 The Council must keep its Constitution up to date (section 9P Local Government Act 2000). It must maintain lawful arrangements for discharging its functions and must have regard to statutory guidance. Decisions taken contrary to the Regulations may be vulnerable to judicial review and quashing. Delegated authority and associated amendments to the Constitution for minor consequential amendments and legislative change to the Monitoring Officer will allow the Council to remain aligned with legislation, guidance and transitional requirements.

Risk

- 9.3 Failure to approve and implement the Scheme would create legal, procedural and reputational risk, including uncertainty over the validity of committee decisions. Implementation risks will be mitigated through legal review, clear procedures, training, published guidance and controlled commencement.

Planning, policy and environmental

- 9.4 The changes concern governance rather than the content of the Development Plan. They do not alter adopted planning policies or statutory assessment duties. They should, however, support faster policy-led decisions, timely plan-making and proportionate referral of proposals with significant planning or environmental implications.

Climate, equality and community safety

- 9.5 The Scheme has no direct climate, sustainability or community safety effects. Existing duties concerning climate change, biodiversity, environmental assessment and community safety remain. No specific adverse equality effects have been identified, and all implementation measures must continue to have due regard to the Equality Act 2010 and accessible public participation.

Consultation

- 9.6 The Scheme has been prepared following the Government's consultation and publication of the final Regulations and statutory guidance. Implementation will take account of those materials and any further relevant guidance.

10 OPTIONS, NEXT STEPS AND CONCLUSION

Options considered

Option 1—approve the amendments to the Constitution: recommended because it provides a lawful and clear basis for implementation.

Option 2—retain the existing arrangements: not recommended because it would leave the governance framework misaligned with mandatory requirements and expose decisions to challenge.

Next steps

- 10.1 Subject to approval, officers will finalise constitutional and procedural amendments, reduce committee membership to the statutory maximum, publish updated delegations and guidance, complete staff and Member briefings, and implement the revised arrangements from 31 October 2026.

11 CONCLUSION

- 11.1 The revised Scheme provides a clear, proportionate and legally robust framework for planning functions. It supports efficient professional decision-making, focuses Member oversight on significant matters and enables the Council to comply with the national planning committee reforms.

APPENDICES

- 1. Constitutional amendments
- 2. Scheme of Delegation dated 4th September 2007