



Title of report: Constitutional Updates

Meeting: Council

Meeting date: 09 October 2026

Report by: Monitoring Officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

A report to propose amendments to the constitution.

Recommendation(s)

- a. That Council notes the requirements to change the terms of the Planning and Regulatory Committee in response to regulations implementing a National Scheme of Delegation of Planning Functions ('National Scheme of Delegation')
- b. That Council approves changes in the Constitution effective on 31 October 2026:
 - i. in Appendix 1 to reduce the number of councillors on the Planning and Regulatory Committee from 15 to 13; and
 - ii. in Appendix 2, 3 and 4 to make amendments to comply with the National Scheme of Delegation and Statutory Guidance and to permit pre-committee technical briefings.

Alternative options

1. Council may choose not to approve the proposals and agree that functions will remain as currently described in the Constitution. This is not recommended. Statutory guidance has stated that current practices how an application is considered will not be possible from implementation of the National Scheme of Delegation.

Key considerations

2. Section 54 of the Planning and Infrastructure Act 2025 introduced 319ZZC to 319ZZF of the Town and Country Planning Act 1990 and [the Town and Country Planning \(Discharge of Local Planning Authority Functions\) \(England\) Regulations 2026](#) ('the Regulations'). This introduced a national scheme of delegation of planning functions and the size of planning committees in England.
3. On 1st June 2026, the government published [statutory guidance](#) about a new National Scheme of Delegation intended to ensure greater clarity and consistency about the role of planning committees in planning decision making.
4. The recommendations in this report are largely to change the Constitution so that it is consistent with the National Scheme of Delegation. The Regulations will come into force on 31 October 2026, and any decision made after that date (even if the application was submitted prior to that date) will need to be considered in accordance with the National Scheme of Delegation.

Part 2 Article 8 Planning, licensing and other functions (Appendix 1)

5. Regulation 7 provides for the number of members on a planning committee or sub-committee to be no more than 13. This is a maximum figure to accommodate local planning authorities where members are from multiple political parties. The Statutory Guidance says that Local planning authorities should consider whether a smaller number of members would be more appropriate in their area to support effective decision making.
6. The proposed amendment in Appendix 1 reflects the requirement in Regulation 7. Consultation will take place with the Group Leaders for the Green group and Conservative group to agree how the required reduction will be achieved.

Part 3 section 5 Other Functions (Appendix 2)

7. Part 3 Section 5 of the Constitution includes the functions of the Planning and Regulatory committee. The committee's functions will be required to be carried out in accordance with the National Scheme of Delegation of Planning Functions from 31st October 2026. The proposed amendment at Appendix 2 reflects the change this will mean for the committee's functions and that redirection processes are now contained within Part 4 Section 8.

Part 3 Appendix Planning Functions (Appendix 3)

8. The tables in Part 3 Appendix Planning functions set out the delegations and the authority for each delegation. The proposed amendments at Appendix 3 reflect the changes required to comply with the Regulations from 31st October 2026 and/or updated in general duty to previous legislative changes.

Part 4 Section 8 Planning Rules and Code (Appendix 4)

9. The Secretary of State has the power to set out which functions of a local planning authority should be delegated to planning officers for a decision and which should go to a planning committee or sub-committee. The Secretary of State has exercised this power through the Regulations.
10. The Regulations set out the following general approach to decision making:

- where applications fall under Schedule 1 decisions must be delegated to officers under regulation 4;
 - where applications fall under Schedule 2, there is a presumption under regulation 5 that decisions are delegated to officers unless the nominated officer and nominated member agree the application should be referred to a planning committee or sub-committee for determination and that it meets at least one of the criteria in regulation 5(3).
11. Schedule 1 of the Regulations sets out all the functions which must be delegated to officers for a decision (unless it is an own-interest application). These are listed as a Schedule 1 to Part 4 Section 8. Schedule 2 of the Regulations sets out applications that may be determined by a committee or by an officer. These are listed in Schedule 2 to Part 4 Section 8.
 12. The changes proposed relate mainly to what can be redirected. The procedure is unaltered and retains most of the existing process around timing. The changes reflect the limitations on redirections from officers to committee that are in the current regulations.
 13. Part 4 Section 8 of the Constitution describes the rules that apply during consideration of a planning application. The changes include how a matter can be referred to Planning and Regulatory Committee. This involves the Chair of the Planning and Regulatory Committee and Service Manager agreeing that the application falls within Schedule 2 and has sufficient significance. The changes enable guidance and examples to be published (if required) to ensure that applicants have prior notification as to the type of applications that would amount to 'significance'. The guidance and examples can be modified and updated as necessary.
 14. Further there is a second change where an application is made by the Council, a member, officer or any organisation where there is an interest or connection with the Council. Where there is requirement for transparency and accountability to be demonstrated, then such applications (whether Schedule 1 or Schedule 2) can be redirected to the committee. The decision process is the same as above (where the Chair of the Planning and Regulatory Committee and the Service Manager must agree) but there is no requirement for the application to be significant. The drafting has been left sufficiently wide to enable the redirection if it is simply that an openness in decision making should be demonstrated.
 15. Where possible, we have tried to incorporate the current Constitutional requirements insofar as they do not conflict with the National Scheme of Delegation.

Part 4 Section 8 Pre-Committee Technical Briefings (Appendix 4)

16. The procedure used during a public decision meeting of Planning and Regulatory Committee has been authored in accordance with good public sector decision making in mind. They are drafted to ensure that there is a balance within the scheme of democratic representation, objective fairness and the legal planning rules whilst attempting to ensure that matters are considered in an efficient manner as possible.
17. Where a particular agenda item is technically or legally difficult or complex, in the venue of a committee decision meeting, it often does not allow members to adequately satisfy or test all aspects of a particular application. For example, time could be considered a constraint or the technical difficulty of the proposal may mean that members may not fully grasp the extent of the complexities. Officers likewise may not be able to adequately answer a particular technical question. This leaves the committee with the quandary of either deferring the matter (so the question can be answered) or proceeding on the basis an important point may not have been

adequately explained. This is not considered to be conducive to efficient or good decision making.

18. The recommendation is that, if the Chair and Service Manager agree, in very limited applications, that a technical briefing of the committee ahead of the decision meeting could occur. This would be to allow an applicant to explain the intricacies of the proposal and members can ask technical details that officers may not be able to answer at a decision meeting.
19. To ensure openness, all information provided by the applicant including details of the briefing, the questions raised and the answers provided would be published on the planning portal or with the report.
20. The technical briefing will allow a briefing and allow members to ask questions. There is no scope for the applicants to ask questions of members or to allow any discussion on the merits of the application. All outputs will be made public, and no decisions will be made at this meeting.
21. This type of briefing is not unique. Similar processes have been adopted by a number of councils and used in similar circumstances. Examples include [West Berkshire Council](#), [West Northamptonshire Council](#), [Stratford District Council](#), [Cambridge joint planning committee](#), [Spelthorne Borough Council](#), [Wirral Council](#) and [Haringey Council](#).
22. The [Planning Advisory Service](#) considers that it is important that members are involved in pre-application stage where it is subject to strict transparency and reporting. PAS recognises that council's adopting set procedures for pre-committee briefings is best practice. It is considered that the recommendation would therefore align with that view.

Community impact

23. The proposals do not have any direct community impact, nor do they link to other local or national strategies or policies. They are proposals that fall within Council's powers to make local arrangements as stipulated by the new legislative framework.

Environmental Impact

24. The proposals do not have any environmental impact.

Equality duty

25. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

26. The equalities screening assessment has been completed and could that there is a no/low impact for equalities.

Resource implications

27. There are no direct resource implications to the proposed amendments.

Legal implications

28. Legal implications are referred to in the sections above, where relevant.

Risk management

29. There are no risks arising directly from the report.

Consultees

30. Relevant lead officers are aware of the changes and were consulted on the specific proposals in the Constitution on 19 June, 20 July and 28 July 2026.
31. Planning Officers briefed the Planning and Regulatory Committee on 08 July 2026.
32. Group Leaders were consulted on 25 August 2026.

Appendices

Appendix 1 Part 2 Article 8 Planning, licensing and other functions
Appendix 2 Part 3 Section 5 Other Functions
Appendix 3 Part 3 Appendix Planning Functions
Appendix 4 Part 4 Section 8 Planning Rules and Code

Background papers

None

Useful links:

[The Town and Country Planning \(Discharge of Local Planning Authority Functions\) \(England\) Regulations 2026](#)
[Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England - GOV.UK](#)
[Part 2 Article 8 Planning licensing and other functions.pdf](#)
[Part 3 Section 5 Other Functions.pdf](#)
[Part 3 Section Appendix Planning Functions.pdf](#)
[Part 4 Section 8 Planning Rules.pdf \(herefordshire.gov.uk\)](#)