Planning Committee Procedure Rules – Appendix 2

The Town and Country (Discharge of Local Planning Authority Functions) (England) Regulations 2026

Arrangements for the National Scheme of Delegations

Background

1. This Appendix sets out the arrangements that the Council has adopted in order to implement the provisions of the new National Scheme of Delegations ("the new scheme"). The relevant regulations are the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 ("the regulations"). Guidance for Local Authorities is set out in the Planning Committees and the National Scheme of Delegations of Planning Functions: Guidance for Local Planning Authorities in England ("the guidance").

2. The provisions relating to the introduction of the National Scheme of Delegations are set out in the constitution in the following sections: -

Constitution location	Document	Detail
Part 4 - document ref 04.9 – Planning Delegations	Scheme of Delegations for Planning - section for Development Management	Changes for development management decisions
Part 4 – document ref 04.5 Environmental Delegations	Scheme of Delegations - Environment – section on Grounds Maintenance and Landscaping	Changes for decisions for works to trees under regulation 16.1 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012
Part 12	Planning Committee Procedure Rules	Updated for new scheme of delegations
Part 21	Planning Code of Practice	Updated for new scheme of delegations and own-interest applications

3. Under the Regulations planning applications are divided into Schedule 1 and Schedule 2 depending on type, scale and complexity of the application.

Schedule 1 applications	Schedule 2 applications
Must be delegated to officers	**Presumption of delegation to officers unless certain conditions are met by applying what is known as the Gateway Test.**
Examples: householder, minor residential, minor commercial, discharge of conditions, prior approval	*Examples: major applications, listed building consent matters, reserved matters applications.*

4. From 31st October 2026 the two categories will form the basis of the Scheme of Delegations for planning applications for all Local Planning Authorities in England. It is mandatory that the Council adopt and comply the new scheme; failure to comply may give rise to legal challenges being brought against the Council by way of judicial review.

5. Under the new scheme, the ability of Members to "call-in" planning applications in their wards will cease to apply. The new arrangements will also abolish any other previous trigger points for referral to Planning Committee such as the number of objections received.

6. Applications will be determined as follows: -

By Planning Committee

- Schedule 2 applications which meet the Gateway Test
- Own-interest applications

By officers under delegated powers

- All Schedule 1 applications
- Schedule 2 applications which do not meet the Gateway Test

<u>Regulation 3 – Nominated Members and Nominated Officers</u>

7. The Council has made arrangements for the position of "nominated member" to be held by the Chairman of Planning Committee or in his/her absence the Vice Chairman. See Scheme of Delegations part 0.49.

8. The Council has made arrangements for the position of “nominated officer” to be held by the Assistant Director of Planning, Leisure and Culture Services or in her absence a nominated deputy. See Scheme of Delegations part xx

9. The nominated member and the nominated officer are new positions created under the regulations. The holders of these positions will carry out the function of assessing whether or not Schedule 2 planning applications meet the conditions set out in the Gateway Test. Where the conditions are met the application will be referred to Planning Committee to be determined. Where the test is not met the application will be decided by officers under delegated powers.

Regulation 4 – Applications that must be determined by an officer

10. Schedule 1 applications must be decided by officers under delegated powers. The Council has made arrangements for this in the Scheme of Delegations part 0.49 and a copy of Schedule 1 is included as an Appendix.

Regulation 5 - Applications that may be determined by a committee or by an officer

11. Schedule 2 applications may be determined either by officers under delegated powers or by committee.

12. There is a presumption in favour of all Schedule 2 applications being delegated to officers. However, if certain conditions apply there may be cases where it is appropriate for applications to be decided by Planning Committee.

13. Under regulation 5 (3) a planning application should only be referred to planning committee if the proposal raises:
    - Ground A - one or more issues of economic, social or environmental significance to the local area, or
    - Ground B - one of more significant planning matters having regard to the development plan and any other material considerations.

    This is known as the Gateway Test.

14. As noted at paragraph 9, the task of assessing which Schedule 2 applications should be referred to Planning Committee, or in other words applying the Gateway Test, falls to the nominated member and the nominated officer.

Exceptions to Schedule 2 process for matters previously decided under delegated powers

15. The regulations and guidance recognise that some local planning authorities already operate under well thought out Schemes of Delegation that provide for a large percentage of routine matters to be decided by officers under delegated powers. This is regarded as good practice as it allows Planning Committee to concentrate on deciding the most complex and high profile planning applications.

16. To enable authorities already exercising good levels of delegation to continue to do so, the new scheme recognises that not all planning applications included in Schedule 2 need to be referred to the Gateway Test. This is particularly the case for types of applications that the government has placed into Category 2 that were traditionally decided by officers under delegated powers.[1]

17. The version of the Scheme of Delegations adopted by the Council for Scheule 2 applications therefore directs that applications previously decided by officers under the old scheme of delegations may continue to be decided by officers without the need for referral to the Gateway Test. In circumstances where the applications would previously have been referred to Planning Committee under the old scheme of delegations, then the Gateway Test will be applied to assess whether grounds exist for those matters to be referred to Planning Committee or whether they are suitable to be decided by officers under delegated powers.

Regulation 6 – Own-interest Applications

18. Separate provision is made in the Regulations for the determination of planning applications made by either the Council or by officers or members. These are referred to as “own-interest” applications.

19. The definition in regulation 6(1) covers applications of a type specified in Schedule 1 or Schedule 2 made by the local authority, by members of the local authority and by officers of the local authority.

20. Additionally, under Regulation 6 (1)(b) the nominated officer and nominated member may take the view that where the authority, or any of its members or officers “otherwise” has an interest in an application, then that application must also be treated as an own-interest application. For example, this may cover an application made by a close relative of an officer or a member.

[1] Guidance for Local Authorities is set out in the Planning Committees and the National Scheme of Delegations of Planning Functions: Guidance for Local Planning Authorities in England – para 13

21. Under Regulation 6 (4) the nominated officer and nominated member may decide to refer an own-interest applications to committee. In any situation where a referral to committee is not made then by default the application will be determined by officers.

22. Whilst the guidance indicates that there is discretion for own-interest applications to be decided by officers for reasons of openness and transparency own-interest applications should in the majority of cases be decided by committee. This will represent a continuation of the existing practice and be in compliance with the Planning Code of Practice. The specific parts of the Planning Code of Practice that link to own-interest applications are paragraphs 10.6 (applications by serving members), 10.9 (applications by serving officers) and 10.10 (applications made by the Council).

23. There may occasionally be exceptions to the presumption in favour of determination by planning committee when the nominated officer and nominated member may form the view that a minor or technical matter would be appropriate to be decided by officers under delegated powers.

<u>Practical arrangements to implement the regulations</u>

24. The following process will apply: -

24.1 Applications will be categorised by officers upon validation into one of the following categories: -

- Schedule 1 applications - for delegated decision
- Schedule 2 applications – identified in the Constitution for delegated decision
- Schedule 2 applications – for referral to the Gateway Test
- Own-interest applications

24.2 The nominated officer and the nominated member will meet no less than once a month to review Schedule 2 applications for referral to the Gateway Test. This will be known as the Gateway Meeting.

24.3 Officers will prepare a case summary for applications being considered at the Gateway Meeting to indicate whether in their view the application raises issues under either Ground A or Ground B.

24.4 The decision of the nominated officer and nominated member on allocation of a Schedule 2 application under the Gateway Test will be final. The aim will be for a consensus to be reached but in any cases where this is not possible the application must be determined by an officer of the authority.[2]

[2] Regulation 5 (2)

24.5 Officers will keep a written record of decisions made under the Gateway Test. A schedule of decisions made will be available to view online and be reported back to members of Planning Committee on a regular basis.

24.6 The Gateway Meeting will also consider any new own-interest applications that have been made, regardless of whether these fall into Schedule 1 or Schedule 2. The nominated officer and the nominated member may agree to refer such applications to committee.

24.7 As noted in paragraphs 22 above, and for reasons of openness and transparency, there will be a presumption in favour of referral to committee for own-interest applications.

25. There are no transition arrangements included in the regulations. This means that the allocation of planning applications into the categories of Schedule 1 and Schedule 2 will be applicable as from 31st October 2026. This may have the effect that planning applications previously on course for determination by officers under delegated powers, or by planning committee under the old scheme of delegations will be subject to a change of decision maker. The guidance is clear that the Council must comply with the new rules or risk legal challenge.[3]

[3] Guidance for Local Authorities is set out in the Planning Committees and the National Scheme of Delegations of Planning Functions: Guidance for Local Planning Authorities in England – para 4