

County Council - Thursday 08 October 2026

Proposed Changes to the Constitution and Scheme of Delegation

(in respect of the Procedural Standing Orders and size of Planning Committee and the Delegations to the Deputy Chief Executive and Director for Economy, Infrastructure and Skills).

Recommendations

That the Council:

- a. Approves the amendment of the County Council's constitution (current version 28 August 2026) [Section 11 – Procedural Standing Orders](#), Part C – Rules of Procedure for Committees and Sub-Committees, Standing Order 24 – Committees as set out in paragraph 13 below.
- b. Approves the amendment of the County Council's Constitution Section 10 – Officers [Appendix 1 Table 4 Delegations to the Deputy Chief Executive and Director for Economy, Infrastructure and Skills](#) as set out in paragraph 17 below (and Appendix 1 to this report).
- c. Approves the publication of our operational arrangements i.e. the Planning Scheme of Management as set out in paragraph 18 below (and Appendix 2 to this report) which explains which member of the authority acts as the Nominated Member and their substitute, and which member of the authority acts as the Nominated Officer and their substitutes to operate the gateway test referral procedure to Planning Committee for determination of certain planning applications.
- d. Approves the Gateway Guidance (detailed within the Gateway Assessment Form as set out in Appendix 3 to this report) for the nominated officer and nominated member.
- e. Notes that the Regulations are mainly aimed at district and borough councils acting as local planning authorities and will have limited impact on the County Council.

Local Member Interest:

N/A

**Report of the Deputy Chief Executive and Director for Economy,
Infrastructure and Skills**



Report

Background

1. On [1 June 2026 statutory guidance](#) was published by the Ministry of Housing, Communities and Local Government (MHCLG) to support local planning authorities in England in implementing the provisions in the [Town and Country Planning \(Discharge of Local Planning Authority Functions\) \(England\) Regulations 2026](#) (the Regulations), which were formally made (enacted on 15 July 2026 as a legally binding Statutory Instrument and which come into force on 31 October 2026. The legislation introduces a mandatory national scheme for planning decisions in England designed to speed up the planning process and planning committees across England are being capped at a maximum of 13 members. Local authorities are mandated to update their internal constitutions to lawfully match the legislation.
2. The Government's changes are aimed mainly at district and unitary councils that deal with a high volume of planning applications. The County Council deals with fewer applications, but these are generally larger, more complex and strategic, so they are likely to be decided by the Planning Committee. The County Council also deals with occasional non-strategic applications, such as installing a kiosk at a sewage treatment works, additional school classrooms, or for example changes to the phasing of the working of a permitted quarry, where a decision could be delegated to officers.
3. The Regulations require local authorities to amend their constitutions to align with the National Scheme of Delegation of Planning Functions ("National Scheme of Delegation") and amend the size of planning committees before the Regulations come into force on 31 October 2026. The statutory guidance states in paragraph 5 that "the government's aim behind the National Scheme of Delegation is to ensure that there is greater clarity and consistency about the role of planning committees in planning decision making. Committee should focus on the key proposals that matter to an area, enabling other, often more minor and technical, decisions to be made by planning officers". Section 319ZZC of the Town and Country Planning Act 1990 gives the Secretary of State the power to set out which functions of a local planning authority should be delegated to planning officers for a decision and which should instead go to a planning committee or sub-committee. The Secretary of State has exercised this power through the Regulations. 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. [Note see paragraph 7 below. The County Council does not determine such applications and therefore mandatory officer decisions does not apply].

- Where applications fall under Schedule 2, there is a presumption under Regulation 5 that decisions are delegated to officers unless the nominated officer (e.g. the Chief Planning Officer or equivalent officer who has extensive professional planning experience, or equivalent officer) and nominated member (e.g. the Chairperson of the Planning Committee or Vice-Chairperson) 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). [Note see paragraph 4 below, minerals and waste planning applications submitted to the County Council as Minerals and Waste Planning Authority are Schedule 2 applications].
 - For own-interest applications, i.e. an application made by the authority, to support transparency and propriety these applications can be referred to a planning committee or sub-committee for determination if the nominated officer and nominated member of the planning committee agree.
 - It is for individual local planning authorities to put in place their own arrangements for how the consideration of cases for referral to committee will operate in practice.
 - Local planning authorities may, through their constitutions, decide which Schedule 2 or own-interest applications need to be considered for referral to Planning Committee. The Regulations provide for the option for Schedule 2 applications to be considered for committee against the gateway test.
4. A Schedule 2 application would be all mineral and waste planning applications (major development - refer to The Town and Country Planning (Development Management Procedure) (England) Order 2015).
 5. Regulation 5 (3) states that 'The nominated member and nominated officer may agree to refer a Schedule 2 application to a committee if in their view it raises:
 - a) one or more issues of economic, social or environmental significance to the local area (Gateway Test Criterion A), or
 - b) one or more significant planning matters having regard to the development plan and any other material considerations (Gateway Test Criterion B).
 6. Every authority must understand clearly which of its existing application types fall into Schedule 1 (mandatory officer delegation), Schedule 2 (presumed officer delegation with a referral gateway), or their own-interest category.
 7. Schedule 1 applications, which must be delegated to officers for determination under Regulation 4, are not relevant to the County Council. These applications fall within the responsibilities of borough and district councils and unitary authorities and include minor householder development, minor commercial

development and reserved matters. The County Council's applications would be either Schedule 2 (minerals and waste planning applications) or own-interest applications. The Regulations provide for the option for Schedule 2 applications and own-interest applications to be considered for committee against the gateway test. These types of applications are not mandatory officer decisions.

8. The Local Government Association's Planning Advisory Service has produced [Key Principles and Implementation Checklists](#). This states that in their experience a good Planning Committee which reviews 3 to 7 applications a month is usually considered good practice. If your current system is working then there is the option to largely retain certain mechanisms, but use them to decide which applications are triaged to the Gateway Test. These could include:
 - Specifying which Schedule 2 applications cannot go to committee in the constitution (subject to exceptional circumstances);
 - Specifying which Schedule 2 applications must go to Gateway.
9. Under the current Scheme of Delegation ([Appendix 1 Table 4 Delegations to the Deputy Chief Executive and Director for Economy, Infrastructure and Skills](#)), Officers may grant or refuse applications if it is not a substantial new site or a significant extension. It is therefore recommended that in addition to the Gateway Test Criterion A and B for applications outlined in the Regulations, that all Schedule 2 applications and own-interest applications which relate to proposals for a substantial new site or a significant extension to an existing site must go to Gateway, and the likelihood would be referral to Planning Committee. Gateway Guidance (detailed within the Gateway Assessment Form – See Appendix 3 to this report) for the nominated officer and nominated member has therefore been produced.
10. The Planning Officer Society has also provided [guidance](#) on implementing the National Scheme of Delegation.
11. The presumption throughout the Regulations is Officer Delegation and that referral to Committee is the exception. Committee consideration must be actively justified through the 'Gateway Test'. Constitutions and protocols must reflect this presumption explicitly. The risk of judicial review and quashing of planning decisions is a direct consequence of non-compliance with the Regulations, and affected authorities face significant legal and reputational exposure.
12. Regulation 7 of the Regulations provides for the number of members on a planning committee or sub committee to be no more than 13. The County Council's constitution [Section 11 - Procedural Standing Orders](#), Part C – Rules of Procedure for Committees and Sub-Committees, Standing Order 24 –

Committees currently states that the Planning Committee number of members is 15.

13. It is recommended to the County Council that Standing Order 24 – Committees be amended accordingly:

24.1 The County Council will appoint the following Committees, which will have the following number of members:

	Number of Members
Non-Scrutiny Committees	
Planning Committee	15
Pensions Committee	9 (and non-voting Co-optees)
Audit and Standards Committee	15
Overview and Scrutiny Committees	
Corporate Overview and Scrutiny Committee	13
Safeguard and Education Overview and Scrutiny Committee	10 (and statutory Co-optees)
Economy, Infrastructure and Communities Overview and Scrutiny Committee	10
Health and Care Overview and Scrutiny Committee	13 (and 8 District and Borough members)

14. [Section 8 – Other Committees](#) of the Constitution lists the responsibilities and powers of the Planning Committee. Any of their powers that are delegated to officers of the Council are recorded in the Scheme of Delegation to officers in [Section 10 – Officers](#) of the Constitution. Officers may exercise functions of the Council, the Cabinet and committees of the Council to the extent and subject to the conditions specified in the Scheme of Delegations to officers set out in Appendix 1. Delegations to the Deputy Chief Executive and Director for Economy, Infrastructure and Skills are found in [Appendix 1 – Table 4](#) of the Constitution.
15. The Scheme of Delegation is the primary constitutional instrument through which the Regulations are implemented and must accurately reflect the new framework from 31 October 2026. The Delegations to the Deputy Chief Executive and Director for Economy, Infrastructure and Skills have therefore been reviewed and updated to insert a Schedule 2 presumed delegation list (required by Regulation 5) and updated to insert own-interest application provisions i.e. an application made by the authority (required by Regulation 6). [Note the Delegations do not include Schedule 1 mandatory delegation list (required by Regulation 4) as the Minerals and Waste Planning Authority does not determine such applications. See paragraph 7 above].

16. Current provisions in the Delegations to the Deputy Chief Executive and Director for Economy, Infrastructure and Skills will not be possible under the National Scheme of Delegation, such as: the power for the Chairperson of the Planning Committee or the nominated opposition spokesperson; or the Local Member to require cases to be called in for committee consideration or having trigger points for automatic referral to committee upon receipt of a specified number of objections or representations (i.e. more than four representations raising objections on material planning grounds). Similarly, provisions enabling parish and town councils to require or trigger referral of a planning application to committee will not be possible.
17. It is recommended to the County Council that the following Delegations to the Deputy Chief Executive and Director for Economy, Infrastructure and Skills in respect of Planning be amended accordingly:
- a. Delegation 17 - Change the wording of delegation 17 and the Government reference to Secretary of State (SoS). Delete SoS for Levelling Up, Housing and Communities and instead refer to SoS for 'Ministry of Housing, Communities and Local Government (MHCLG (or as amended))'
 - b. Delegation 19 - Change the wording of delegation 19 to remove trigger points and instead refer to the National Scheme of Delegation as set out in Appendix 1 to this report:

Take out reference to the Chairperson or nominated opposition.

Take out reference to the Local Member

Take out reference to no more than 4 representations raising objections

To clarify Delegation No. 19 would be amended to remove call in power to Planning Committee if a material planning objection to the application or matter in question is received from:

The Chairperson of the Planning Committee or the nominated opposition spokesperson; or

The relevant District Council or Parish Council; or

The Local Member of the County Council; or

A statutory consultee in accordance with the requirements listed in Planning Practice Guidance (Table 2) and no more than 4 representations raising objections on material planning grounds have been received.

Instead reword the delegation 19 to state:

In accordance with the National Scheme of Delegation, where the Schedule 2 application or Own Interest application (as set out in the Town and County Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026) :

- Does not involve the development of a substantial new site; or
- Does not involve a significant extension to an existing site; or
- Does not raise one or more issues of economic, social or environmental significance to the local area; or
- Does not raise one or more significant planning matters having regard to the development plan and any other material considerations

then the Director may (subject to the decision of the nominated member and the nominated officer (as set out in the Planning Scheme of Management) not to refer the Schedule 2 application or Own Interest application to the Planning Committee) decide:

- To grant planning permission for the County Council's own development (Own Interest application);
 - To grant planning permission for the minerals and waste developments, including the approval of Schemes of Conditions under the Environment Act;
 - To refer applications to the Secretary of State when necessary in accordance with the [Town and Country Planning \(Consultation\) \(England\) Direction 2024](#) or subsequent directions where the application involves Green Belt development, development outside town centres, world heritage sites development, playing field development or flood risk area development in accordance with the relevant statutory consultation arrangements;
 - To refuse planning permission or not approve the matter in question, except in the case of a substantial new site or a significant extension to an existing site.
- c. Insertion of an additional delegation that applications for hazardous substances consent can be determined under delegated powers, rather than referring these to Planning Committee. The wording:

To determine applications for hazardous substances consent, and related powers.

18. It is recommended to the County Council that our operational arrangements i.e. the Planning Scheme of Management (as set in Appendix 2 to this report) be published on the [Staffordshire County Council's planning webpage](#) and linked to the [Planning Committee webpage](#).
19. Regulation 5(3), Regulation 6(4) and Statutory Guidance require a gateway referral procedure to Planning Committee for Schedule 2 planning applications and Own-interest applications. The Gateway cannot operate without appointing and formally designating a nominated officer and nominated member. Regulation 3 and Statutory Guidance also require substitutes, including express cover arrangements for own-interest scenarios where the nominated officer or

nominated member has a personal interest. Appendix 2 to this report sets out Staffordshire County Council's operational arrangements i.e. The Planning Scheme of Management and which members of the authority act as the nominated member and substitute nominated member and which officers act as the nominated officers and substitute nominated officers to operate the gateway test referral procedure to Planning Committee. This also sets out which officers have delegated powers to determine Regulation 5 and Regulation 6 planning applications and which officers have delegated powers under the Constitution to determine any other planning matter.

20. It is not a requirement that all Schedule 2 applications are considered for referral, the Regulations allow Local Planning Authorities to decide and record which Schedule 2 applications and own-interest applications will enter the gateway process. Authorities must make and record this choice. A Planning Committee Referral Protocol for Staffordshire County Council has been produced that sits underneath the Constitution and gives the nominated member and nominated officer (as set out in the Planning Scheme of Management) a structured framework to agree that referral to and determination by Planning Committee is necessary under Regulations 5 and 6. A Gateway Assessment Form (refer to Appendix 3) will be used for all Schedule 2 applications and own-interest applications. Given the low number of applications received, it is not considered that a triage process in the constitution is warranted and all applications would go to a Gateway Assessment. The Gateway Assessment Form has been / is currently being tested against real applications by the Planning Policy and Development Management Team. Whether an application meets Criterion A or Criterion B is a judgement to be made by the nominated officer and nominated member. A gateway test referral procedure meeting will take place monthly (organised by Member and Democratic Services) between the nominated officer and nominated member and a representative from Legal Services.
21. The Local Government Association Planning Advisory Service has provided guidance on how to amend the council's constitution to be legally compliant with the [Regulations](#) and [Statutory Guidance](#). "[Flowchart Option 1](#) relates to councils needing minimal change. This is for councils with Planning Committees that are functioning well, who are already seeing the right type and volume of applications and where the changes needed are likely to be limited in order to be complaint". It is considered that the County Council's Planning Committee fits into this category. The committee meetings take place on a bi-monthly basis and applications referred to the Planning Committee are ones that would meet the Gateway Test set out in the National Scheme of Delegation i.e. Schedule 2 applications which either raise one or more issues of economic, social or environmental significance to the local area; raise one or more significant planning matters having regard to the Development Plan and other material considerations; and/or are proposals for a substantial new site or a significant extension to an existing site. [The Planning Policy and Development Management Team act on behalf of the County Council as Minerals and Waste

Planning Authority and County Planning Authority. All minerals and waste applications are "major development" [refer to The Town and Country Planning (Development Management Procedure) (England) Order 2015] and therefore are Schedule 2 applications under the Regulations. Own-interest applications such as school classroom extensions could however be "minor development" i.e. a building where the floor space created is less than 1,000 square metres, and the development is carried out on a site having an area of less than 1 hectare or could be "major development" if more than 1,000 square metres or an area of more than 1 hectare].

22. Statutory Guidance requires a mandatory transparency requirement i.e. a recording system for gateway decisions to be set up, including the outcome and reasons for every application considered for referral. A delegation reason statement for delegated decisions on a standard officer report template, and a referral reason statement for committee reports is also a good practice requirement recommended to ensure consistency across all casework and transparency obligations in the Statutory Guidance. A mandatory transparency requirement will be quarterly reporting to committee and the publication of referral records in an accessible and up-to-date format on the council's website. Therefore, all Staffordshire County Council's planning delegated, and planning committee reports on planning applications will include either a delegation reason statement or committee referral reason statement. In addition to the Annual Development Management Performance Report taken to Planning Committee, a quarterly report setting out gateway decisions will also be taken to Planning Committee. A Gateway Assessment Form will also be published alongside each planning application on our planning application website - Citizen Portal.
23. All Members will need to be briefed on the removal of the ability to require cases to be referred to committee for consideration. Existing [Planning Committee Protocols and Policies - May 2025](#) will be updated as necessary to reflect the new referral framework including what local members can and cannot do under the Regulations and any provisions supporting positive officer and member relationships, making clear the proper channels through which members may engage with the planning process and protecting officers from inappropriate pressure or attempts to influence the exercise of delegated planning functions. [Note the [Local Government Association Planning Advisory Service - Planning Committee Reforms guidance](#) states 'To protect the integrity of the nominated officer's independence and the gateway process, the member contact rule will be communicated that any representations by local members about Schedule 2 applications should be directed to the nominated member and not to the nominated officer directly'. A local member can request to bring an application to gateway test only, not a referral to committee].
24. A key aspect of the new framework is also ensuring that members understand that the volume of representations (whether in objection or in support) cannot constitute a basis for referral to committee. The nominated officer (and

substitute) and nominated member (and substitute) will be trained in applying the gateway criteria, including the distinction between Criterion A and Criterion B, the relevance of the likely officer recommendation, the role of statutory consultee objections, and the heightened presumption of delegation for special control applications. Note Regulation 2(2) – officers must exercise their own independent professional planning judgement in all delegated decisions.

25. Full Council must adopt constitutional amendments, updates to the Delegations to the Deputy Chief Executive and Director for Economy, Infrastructure and Skills, and new Planning Committee terms of reference before the Town and County Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (the Regulations) come into force on 31 October 2026. From 31 October 2026, referral records (of planning applications referred to Planning Committee for determination) must be maintained and published on the council's website from the first day of operation. Quarterly from 31 October 2026, referral records must be reported to the Planning Committee. By 31 October 2028 the Secretary of State must carry out a statutory review of the Regulations and publish a report. Authorities should review their arrangements following publication.

Consideration by the Audit and Standards Committee

26. This report was considered by the Audit and Standards Committee at their meeting on the 29 September 2026, where Members expressed significant concern that the changes had been imposed by central government and would reduce local democratic involvement in planning decisions. Although Members acknowledged that the Council was required to respond to the legislation, several stated that they could not support the proposals as a matter of principle. Concerns were also raised regarding the removal of existing call-in powers and automatic referral triggers, and the potential effect on the ability of local communities, local Members and parish and town councils to influence whether applications were considered by the Planning Committee.
27. Officers clarified that compliance with the Regulations was mandatory and that the statutory guidance supported their implementation, including operation of the Gateway Test. Failure to amend the Constitution could expose the Council to judicial review or the quashing of planning decisions. Officers also reassured Members that major applications affecting communities would continue to be considered by the Planning Committee, while minor and technical matters would be determined by officers. Testing of the proposed gateway arrangements against current applications had indicated that the same significant applications would still have been referred to the Committee. It was also confirmed that the pause in Local Government Reorganisation had no effect on the proposals.

28. Members suggested that the Council should write to the Secretary of State, with copies to Staffordshire Members of Parliament, to express its opposition to the reduction in local democratic control.
29. Overall, the Committee did not endorse the recommendations set out in the report and requested that its position, together with the reasons expressed during the debate, be reported to the Full Council.

Equalities Implications

30. There are no equalities implications arising as a result of this report.

Risk and Legal Implications

31. The risk of judicial review and quashing of planning decisions is a direct consequence of non-compliance with the Regulations, and affected authorities face significant legal and reputational exposure.

Resource and Value for Money Implications

32. There are no resource and value for money implications arising as a result of this report.

Environmental Implications

33. There are no environmental implications arising as a result of this report.

List of Background Documents

[Report to 06 August 2026 Planning Committee](#) – Planning Committees and the National Scheme of Delegation of Planning Functions.

[Local Government Association Planning Advisory Service – Planning Committee Reforms.](#)

[Town and County Planning \(Discharge of Local Planning Authority Functions\) \(England\) Regulations 2026 \(the Regulations\).](#)

[MHCLG Statutory guidance published 1 June 2026 – Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England.](#)

Planning Officer Society [June 2026 Good Practice Guidance Note – National Scheme of Delegation.](#)

Appendices

Appendix 1: Amendments to the Planning Delegations to the Deputy Chief Executive and Director for Economy, Infrastructure and Skills

Appendix 2: Operational Arrangements

Appendix 3: Gateway Assessment Form

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