

Council

12 May 2026

Part 1 - Public

Matters for Decision



Cabinet Member	n/a
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Changes to the Constitution – implementation of Planning Committee reforms under the Planning and Infrastructure Act 2025

1 Summary and Purpose of Report

- 1.1 This report recommends that changes are made to the Constitution to create a single Planning Committee in place of the existing 3 Area Planning Committees.
- 1.2 In addition to a number of consequential changes to the Constitution that arise out of the proposed creation of a single planning committee, the report also recommends changes to
 - (a) Rule 15.24 (which deals with the deferral of a planning application for the relevant Area Planning Committee to receive a report from the Monitoring Officer on the possibility of costs or compensation being awarded against the Council in the event that the application is determined in the way proposed by the Committee);
 - (b) Paragraph E8.7 of Protocol E to the Constitution (Members' Planning Code of Good Practice), to require that planning applications submitted by the Council are to be determined by the Planning Committee.

2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective council.
- 2.2 The proposals in this paper will contribute to the above priority area by ensuring that planning applications are determined in the most efficient and equitable way.

3 Recommendations

- 3.1 Members are requested to

- a) agree to the creation of a Planning Committee, comprised of 13 Members and politically balanced;
- b) agree to the deletion of the 3 Area Planning Committees;
- c) agree to the consequential changes to the Constitution as set out at paragraphs 4.10 of this report and at Annex 1;
- d) agree to the amendments to Rule 15.24 of the Council and Committee Procedure Rules set out at paragraphs 4.14 to 4.16 of this report and at Annex 1;
- e) agree to the amendments to the Members' Planning Code of Good Practice set out at paragraphs 4.17 to 4.18 of this report and at Annex 1.

4 Introduction and Background

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

- 4.1 On 26 March 2026 the Government published a consultation on the draft regulations required to implement a national scheme of delegation and set a limit on the size of planning committees. Alongside the draft regulations the Government also consulted on the draft statutory guidance which local planning authorities must follow in implementing the final regulations. The consultation closed on 23 April 2026.
- 4.2 The consultation followed a previous consultation carried out in May 2025 seeking views on what detailed provisions should appear in the regulations.
- 4.3 The draft regulations set out the changes to the size of planning committees, proposing to set a maximum size limit of 13 members for a planning committee which reflects best practice highlighted during the previous consultation.
- 4.4 The draft regulations also set out the government's preferred two-tier approach to the determination of planning applications. Schedule 1 to the draft regulations sets out the types of application which must in all circumstances be delegated to officers. These include applications for planning permission for householder, minor residential and minor commercial development, as well as a number of supplementary and technical consents. Schedule 2 sets out the types of application which may be referred to a committee subject to the Gateway Tests which are set out in Regulation 5 and this requires agreement between the nominated member (e.g. the chair of the committee) and officer (usually the Chief Planner or equivalent), but which otherwise must be delegated to an officer. These include other applications for planning permission not in Schedule 1, variations of permissions, and special controls such as listed building and tree preservation order consents.

- 4.5 The government intends to bring the regulations into force on 30 September 2026.
- 4.6 The draft regulations can be viewed at [The Town and Country Planning \(Discharge of Local Planning Authority Functions\) \(England\) Regulations 2026](#).
- 4.7 In respect of the intention to impose a maximum size to planning committees, this will necessitate changes to our current approach of determining planning applications through the 3 Area Planning Committees, as all 3 Committees have more than 13 Members. The continuation of the existing approach will not therefore be possible.
- 4.8 It is not anticipated that the government will make any changes to the intended approach of limiting the size of planning committees as a result of the most recent consultation. On the assumption that the Borough Council will need to review its approach prior to 30 September 2026, this report proposes that the Council now moves to a single planning committee. Irrespective of the other intended changes proposed in the regulations, the move to a single planning committee can be actioned immediately as this is lawful under existing legislation.
- 4.9 It is not proposed to make any immediate changes to Part 3 of the Constitution (Responsibility for functions, Terms of Reference and the Scheme of Delegation) to give effect to the two-tier approach set out in the draft regulations, other than to replace any reference to the 3 Area Planning Committees with a reference to the Planning Committee. These will be addressed as soon as the regulations are finalised.
- 4.10 Certain consequential changes are also required in light of the proposed move to a single Planning Committee. These are: -
- Rule 15.25, which sets out the procedure that will be followed when an item of business relates to an area covered by more than one Area Planning Committee, will be deleted;
 - Part 3 of the Constitution (Terms of Reference for Area Planning Committees, Scheme of Delegation), the Council and Committee Procedure Rules and the Rules for Public Speaking at Planning Committees will be updated to replace any reference to Area Planning Committee or the relevant Planning Committee with a reference instead to the Planning Committee;
 - Protocol E to the Constitution (Members' Planning Code of Good Practice) will also be updated to replace any reference to Area Planning Committee or the relevant Planning Committee with a reference instead to the Planning Committee.
- 4.11 The political balance of the Council's committees will need to be reviewed. This is dealt with at Item 10 of the agenda.

- 4.12 The proposed amendments will ensure that the planning committee will be able to immediately discharge all of those functions previously undertaken by the Area Planning Committees.
- 4.13 Members are asked to note that any member of the Council who is not appointed to serve on the Planning Committee will retain their usual right to attend as set out in the Committee Procedure Rules.

Rule 15.24

- 4.14 Rule 15.24 of the Committee Procedure Rules currently provides as following:-

'If, contrary to a recommendation of the Director of Planning, Housing & Environmental Health, an Area Planning Committee is minded to determine an application in a way or on grounds which the Director does not consider can be substantiated, a resolution by the committee to make such a determination will be a recommendation only and the application shall stand adjourned to the next meeting of the committee to enable the Director of Central Services and Monitoring Officer to submit a report on the possibility of costs or compensation being awarded against the Council in the event that the application is determined in that way.

If the Director of Central Services and Monitoring Officer's report indicates that there is likely to be a risk of significant costs being awarded against the Council at any appeal, or a potential liability to pay compensation, the committee may not determine the application in a manner contrary to the advice set out in the report, and a resolution by the committee to make such a determination will be a recommendation only and the application shall stand adjourned to Council for determination.'

- 4.15 The proposed introduction of a single Planning Committee provides an opportunity to reconsider the approach taken where the committee is minded to reach a decision on an application contrary to the recommendation of the Director of Planning, Housing and Regulatory Services. It is common for Councils to include provision within their constitutions to require a pause where the Committee is minded to reach such a decision. This is an important safeguard to ensure that decisions are robust and will not put the Council at risk of an adverse costs award. However, it is unusual for provision to be made for a further deferral following consideration of a report from the Monitoring Officer explaining the full implications (including legal and cost implications) of proceeding with the proposed decision. Ordinarily the Committee will be invited to consider the report outlining the risks arising from the proposed decision and will then proceed to make a decision.
- 4.16 It is therefore proposed to amend Rule 15.24 as set out below:-

'If, contrary to a recommendation of the Director of Planning, Housing & Regulatory Services, the Planning Committee is minded to determine an application in a way or on grounds which the Director does not consider can be substantiated, a resolution by the committee to make such a determination will be a recommendation only and the application shall stand adjourned to the next

meeting of the committee to enable the Director of Central Services and Deputy Chief Executive to submit a report on the possibility of costs or compensation being awarded against the Council in the event that the application is determined in that way.

Members' Planning Code of Good Practice

4.17 Paragraph E8.7 currently provides as follows:

'Proposals for development submitted by the Council must be treated no differently to any other application.'

To ensure that planning applications submitted by the Council are determined openly and transparently all applications for planning permission submitted by the Council will be determined by Full Council.'

4.18 With the creation of a single, politically balanced Planning Committee, it is considered that the function of determining an application made by the Council can be discharged by that Committee rather than referring the matter to Full Council. It is therefore proposed to change paragraph 8.7 so that the reference to Full Council is substituted with a reference to the Planning Committee.

5 Other Options

5.1 The other options considered were:-

- Make no changes to the existing rules

5.2 In light of the stated intention to bring the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 into force on 30 September 2026, the Council must ensure that its approach towards the determination of planning applications is compliant with the proposed changes by that date. All 3 the existing Area Planning Committees will exceed the proposed maximum committee size so the Council has no option but to consider a change in approach.

5.3 A further report to Full Council will be made once the regulations are finalised so that Part 3 of the Constitution (Responsibility for functions, Terms of Reference and the Scheme of Delegation) can be updated accordingly.

6 Financial and Value for Money Considerations

6.1 The proposal to create a single planning committee and delete the existing 3 area planning committees will create a small reduction in the number of special responsibility allowances paid to Members.

7 Risk Assessment

- 7.1 The proposed creation of a single Planning Committee will ensure that the Council is able to comply with the proposals due to be implemented in the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. These regulations are currently in draft but are due to come into force on 30 September 2026.

8 Legal Implications

- 8.1 Article 10 of the Constitution sets out the procedure for review and revision of the Constitution. Except in specified circumstances, changes to the Constitution may only be approved by full Council after consideration of a report on the proposal from the Council's Monitoring Officer.
- 8.2 Upon coming into force, the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 will impose a limit on the size of a committee determining planning applications. The limit set out in the draft regulations is no more than 13 Members.

9 Consultation and Communications

- 9.1 If agreed, the amended Constitution would be published via mod.gov.

10 Implementation

- 10.1 If agreed, the changes will be implemented with immediate effect.
- 10.2 Any applications that currently stand deferred from an area planning committee will be reported to the new single planning committee for determination.

11 Cross Cutting Issues

- 11.1 Climate Change and Biodiversity

11.1.1 Limited or low impact on emissions and environment.

11.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

- 11.2 Equalities and Diversity

11.2.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Background Papers	None
Annexes	Annex 1 – proposed amendments to Constitution