



CONSTITUTION & ETHICS COMMITTEE – 10 SEPTEMBER 2026

REPORT OF THE DIRECTOR OF GROWTH, ENVIRONMENT & TRANSPORT & THE MONITORING OFFICER

GOVERNMENT PLANNING REFORMS: AMENDMENTS TO PLANNING GOVERNANCE, DELEGATIONS AND MEMBER PLANNING CODE ARRANGEMENTS

Purpose of Report

1. The purpose of this report is to set out the constitutional, delegation and conduct changes required to align the Council's planning decision-making arrangements with the Government's planning reforms, in particular the national scheme of delegation for planning functions and the associated statutory guidance. The report asks the Committee to consider and recommend approval of revised Development Control and Regulatory Board ("DCRB") terms of reference, revised officer delegations, a revised Members' Planning Code of Good Practice, and new guidance governing the gateway assessment by a Nominated Member and Nominated Officer. This report forms part of the wider implementation route for the planning reforms: a separate report will be submitted to the Development Control and Regulatory Board (DCRB) on 14 September 2026 for information, together with a briefing note for members, and the constitutional changes recommended by this Committee will be submitted to the County Council for approval on 23 September 2026.

Background

2. The Planning and Infrastructure Act 2025 introduced a nationally prescribed framework for the delegation of planning functions, supported by the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 and statutory guidance issued by the Ministry of Housing, Communities and Local Government on 1 June 2026. The Government's stated aim is to bring greater clarity and consistency to the role of planning committees, so that committees focus on proposals that matter to an area while more minor and technical decisions are made by officers.
3. The statutory guidance states that, from 31 October 2026, non-compliance with the Regulations may expose planning decisions to judicial review where a committee determines an application which should have been delegated to officers. The Council's Constitution, DCRB terms of reference, officer delegations, Planning Code of Good Practice and operational arrangements therefore need to be updated before that date.

Summary of the new national scheme:

Application/function category	Effect of national scheme	Council response
Schedule 1 applications	Must be determined by officers unless the separate own-interest provisions apply.	Officer delegations expressly provide for delegated determination of all Schedule 1 applications and for notification arrangements where required.
Schedule 2 applications	Presumed to be determined by officers unless the Nominated Member and Nominated Officer agree that referral to DCRB is necessary and at least one statutory referral criterion is met.	DCRB terms of reference and officer delegations establish the referral gateway and confirm that member, parish, objection-number or other local call-in triggers cannot require DCRB referral.
Own-Interest applications	May be referred to committee where the Nominated Member and Nominated Officer agree that referral is appropriate, having regard to transparency, propriety and public accountability.	Officer delegations and the Planning Code of Good Practice include own-interest and substitute arrangements to secure separation between applicant/promoter interests and planning decision-making.
Nominated roles	Statutory guidance envisages a Nominated Officer, normally the Chief Planning Officer or equivalent, and a Nominated Member, normally the committee chair or equivalent, with cover arrangements.	The documents identify the Chair of DCRB as Nominated Member, the Vice Chair and other trained members as substitutes, and the Chief Planning Officer as Nominated Officer with senior officer cover where required.

Changes to the DCRB terms of reference

4. The DCRB terms of reference in Part 3 of the Constitution have been updated as set out in Appendix A to this report, so that planning and development control functions are expressly subject to the 2026 Regulations, the planning elements of the Council's Scheme of Delegation, the Board's procedures and the Constitution. The revised terms confirm that DCRB may determine Schedule 2 applications only where the Nominated Member and Nominated Officer agree that referral is necessary and that at least one statutory criterion is met. They also provide for Own-Interest applications to be reported to DCRB

only where the Nominated Member and Nominated Officer agree that referral is appropriate, having regard to statutory guidance, transparency, propriety and public accountability. The changes include:

- Retention of DCRB as the Council's non-executive planning decision-making body for matters which may lawfully be reported to it.
- Definition of the Nominated Member, Nominated Officer, Chief Planning Officer, Schedule 1, Schedule 2 and Own-Interest application roles for local constitutional purposes.
- Confirmation that the Chair of DCRB is the Nominated Member, with the Vice Chair, the relevant Board Spokesperson or other trained Board member as substitutes in defined circumstances.
- Removal of any implication that a local member request, parish or town council request, objection threshold, applicant request, objector request or other external trigger can require referral to DCRB.

Changes to officer delegations

5. Part 9 of the Constitution has been amended as set out in Appendix B to this report, by updating the specific delegations to the Director of Growth, Environment and Transport and by identifying the Chief Planning Officer function for the purposes of the planning elements of the Council's Scheme of Delegation. The revised officer delegations make officer determination the default position required by the national scheme, while preserving referral routes where the Regulations, statutory guidance and the Council's constitutional arrangements permit them.
 - Power 29 is updated for strategic planning consultations, with referral to members where the matter is of strategic importance or otherwise requires member consideration under the Constitution and the planning elements of the Council's Scheme of Delegation.
 - Power 30 is introduced/updated to cover the planning elements of the Council's Scheme of Delegation and Chief Planning Officer functions, including delegated determination of Schedule 1 applications and Schedule 2 applications unless the gateway test is met.
 - Own-Interest application provisions require appropriate separation between the applicant/promoter/landowner or service-client function and the planning decision-making function.
 - The Director of Growth, Environment and Transport is authorised, following consultation with the Chief Legal Officer/Monitoring Officer and Chief Planning Officer, to approve, publish and amend operational guidance and management arrangements consistent with the Constitution, Regulations and statutory guidance.

- Powers 31, 32, 33, 34, 35 and 37 are aligned with the revised delegation framework so that connected development management matters are handled consistently with the 2026 Regulations and the planning elements of the Council's Scheme of Delegation.
- Existing Power 30 (Rights of Entry) is renumbered as Power 30A to accommodate the new amendments to the planning elements of the Council's Scheme of Delegation power; no substantive amendment is proposed.
- The table below states which of the existing delegations are being amended, where the delegations originated and whether the changes are substantive or administrative.

Power	Originating body	Nature of amendment
29	Cabinet	substantive amendment
30	New	new delegation
30A	DCRB	renumbering only
31	DCRB	substantive amendment
32	Cabinet	substantive amendment
33	DCRB	substantive amendment
34	DCRB	substantive amendment
35	DCRB	no substantive change
37	DCRB	no substantive change

New gateway process for the Nominated Member and Nominated Officer

- Appendix D sets out practical guidance for applying the referral gateway. It is intended to promote consistency, transparency and lawful decision-making when determining whether a Schedule 2 or Own-Interest application should be referred to DCRB. The guidance proceeds from the central proposition that officer delegation is the default position unless the relevant test for referral is positively met. The key points from the guidance are as follows:
 - For Schedule 2 applications, referral should occur only where the Nominated Member and Nominated Officer agree that referral is necessary and that the proposal raises either issues of economic, social or environmental significance to the local area, or significant planning matters having regard to the development plan and other material considerations.
 - For Own-Interest applications, referral may occur where the Nominated Member and Nominated Officer agree that referral is appropriate having regard to statutory guidance, the nature of the Council's interest, the nature and scale of the development, and the need for transparency and public accountability.
 - The guidance introduces a two-stage local assessment: an administrative/legal gateway check followed by a significance assessment

covering economic, social, environmental and planning-policy matters, plus own-interest considerations.

- It identifies matters which must not, without more, be treated as reasons for referral, including the volume of objections or support, local member or parish requests, political controversy, publicity, committee workload, historic views about the applicant/developer, or pressure on the Chair/Nominated Member or senior officers.
- It provides a recording template requiring the classification, significance checklist, matters disregarded, outcome and recorded reasons to be documented on the file and, where relevant, in delegated or DCRB reports.

Implementation and practical implications

7. Subject to approval by the County Council, implementation requires the Constitution to be updated so that Part 3 reflects the revised DCRB terms of reference and Part 9 reflects the revised officer delegations. Appendix E sets out in a schedule all the proposed changes. The revised Members' Planning Code of Good Practice (Appendix C) should be issued to all relevant members and incorporated into the Council's planning training arrangements. The Nominated Member and Nominated Officer gateway guidance, including the recording template, needs to be published and used from 31 October 2026 alongside the revised planning elements of the Council's Scheme of Delegation. DCRB members, substitute members, spokespeople, senior planning officers and relevant governance officers also need to be briefed on the new legal gateway, the treatment of Own-Interest applications, lobbying safeguards, substitute arrangements and the requirement to record referral decisions and reasons clearly on the planning file and, where relevant, in delegated or DCRB reports.
8. As part of the implementation arrangements, a separate report will be taken to DCRB on 14 September 2026 for information. That report will draw members' attention to the proposed constitutional changes, the revised Planning Code of Good Practice and the new gateway process and will be accompanied by a briefing note explaining the practical effect of the national scheme of delegation for DCRB members, substitute members and the Nominated Member role. This briefing note is attached at Appendix F. Subject to this Committee's consideration of the proposed amendments, the necessary constitutional changes will then be submitted to the County Council for approval on 23 September 2026, so that the revised arrangements can be in place before the national scheme comes into force on 31 October 2026.
9. The practical implications are principally operational rather than structural. More applications will be determined under delegated powers where the national scheme requires or presumes officer determination, and applications will only be reported to DCRB where the statutory gateway is met and the Nominated Member and Nominated Officer agree referral. Existing practices which could amount to local call-in arrangements, objection-number triggers or automatic referral following a local member, parish or town council request must therefore

be replaced by the gateway assessment process. The operation of the gateway should be monitored after commencement, with periodic review of referral and non-referral decisions to test consistency, identify any issues arising from lobbying or member involvement, and inform any future minor amendments to the guidance or associated management arrangements.

10. The majority of the planning delegations affected by the proposals originate from DCRB although certain consultation-related delegations originated from Cabinet. To the extent that any executive-function delegation requires separate approval or confirmation through Cabinet arrangements, that will be undertaken through the appropriate executive governance route.

Recommendation

11. The Committee is asked to:

- (a) note the Government's national scheme of delegation for planning functions and the requirement for the Council's Constitution and associated planning governance arrangements to be aligned with that scheme before it comes into force on 31 October 2026;
- (b) recommend to the County Council that the revised Development Control and Regulatory Board terms of reference, officer delegations and Members' Planning Code of Good Practice, set out in Appendices A, B and C to this report, be approved;
- (c) endorse the guidance for the Nominated Member and Nominated Officer applying the DCRB gateway test, set out in Appendix D, for use alongside the revised planning elements of the Council's Scheme of Delegation and associated management arrangements;
- (d) note the Schedule summarising the proposed Planning governance and delegation changes at Appendix E;
- (e) note that a separate report will be submitted to the Development Control and Regulatory Board on 14 September 2026 for information, together with the briefing note set out at Appendix F, for members on the practical operation of the revised arrangements; and
- (f) note that, subject to this Committee's consideration, the proposed constitutional changes will be submitted to the County Council for approval on 23 September 2026.

Legal and governance implications

12. The amendments are necessary to reduce the risk that planning decisions are taken by the wrong decision-maker after the commencement of the national scheme. The revised arrangements also support the Council's governance objectives by ensuring transparent recording of any decision to refer, or not to refer, an application to DCRB; by maintaining officer independence for

delegated decisions; and by managing conflicts or own-interest issues through substitution and separation arrangements.

Financial, staffing, equalities and environmental implications

13. There are no direct financial implications arising from the constitutional amendments themselves. Implementation will require officer time to update the Constitution, publish the revised documents, develop the recording template and deliver member/officer training. The report does not introduce new service policy with direct equalities or environmental impacts; however, the gateway itself requires consideration of relevant planning, social, economic and environmental significance where those matters arise in individual planning applications.

Consultation

14. The proposed amendments have been prepared using the four draft documents attached as Appendices A–D. The documents are informed by statutory guidance and by Planning Officers Society good practice material, both of which emphasise the need for local constitutions and planning committee arrangements to be updated before commencement of the national scheme. DCRB will receive a separate information report and briefing note on 14 September 2026 so that members are aware of the revised constitutional and operational arrangements before the changes are considered by the County Council on 23 September 2026.

Background papers

Ministry of Housing, Communities and Local Government, Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England, published 1 June 2026.

Planning Officers Society, Good Practice Guidance Note – National Scheme of Delegation, published 3 June 2026.

Appendices:

Appendix A	Revised Development Control and Regulatory Board terms of reference / planning delegations
Appendix B	Revised officer delegations – Director of Growth, Environment and Transport
Appendix C	Revised Members' Planning Code of Good Practice
Appendix D	Guidance for Nominated Member and Nominated Officer applying the DCRB gateway test
Appendix E	Schedule of Proposed Planning Reforms

Appendix F Member briefing note**Officers to contact**

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