

Council
2026

14th October

Introduction of the National Scheme of Delegations of Planning Functions

Relevant Portfolio Holder		Cllr Sue Baxter – Deputy Leader of the Council and Cabinet Member for Planning and Strategic Housing
Portfolio Holder consulted		Yes
Relevant Assistant Director		Ruth Bamford
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Wards Affected		All
Ward Councillor(s) consulted		N/A
Relevant Council Priority		Sustainability
Non-Key Decision		
If you have any questions about this report, please contact the report author in advance of the meeting.		

1. RECOMMENDATIONS

Members are asked to NOTE:

- 1.1 The matters set out in this report relating to the introduction of the National Scheme of Delegation of Planning Functions; and**
- 1.2 that there is a mandatory requirement for the Council to adopt the National Scheme of Delegation in accordance with the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.**

Members are asked to RESOLVE:

- 1.3 That the arrangements set out in this report be adopted with effect from 31 October 2026; and**
- 1.4 That the Constitution be updated by adopting the following documents attached to this report: -**
- **Scheme of Delegations for Development Management Appendix A**
 - **Scheme of Delegations for Trees Appendix B**
 - **Planning Committee Procedure Rules Appendix C**

- **Planning Code of Conduct Appendix D**

- 1.5 That authority be delegated to the Assistant Director for Legal, Democratic and Procurement Services to make any further consequential amendments required to the Constitution; and**
- 1.6 That the new arrangements be considered for review by the Constitution Review Working Group after the scheme has been operating for 6 months, such discussion to include feedback from Members including the Chairman / Vice Chairman of Planning Committee.**

2. BACKGROUND

- 2.1** The purpose of this report is to explain to Members the changes which are being implemented by the national government in relation to the making of decisions on planning applications by local councils. The previous system of each individual council having its own Scheme of Delegations for planning decisions is being replaced by a National Scheme of Delegation. Adoption of the new arrangements is mandatory and applies to all Local Planning Authorities in England and Wales.
- 2.2** The local arrangements for decision making operated at the Council will have to be amended to comply with the Regulations. The result will be a greater emphasis on the use of delegated powers, stricter rules about what applications can be decided by officers and what matters can be referred to Planning Committee, and the ending of the practice of members being able to “call in” planning applications in their ward.
- 2.3** The new arrangements need to be adopted by no later than 31st October 2026.

3. OPERATIONAL ISSUES

Introduction

- 3.1** Schemes of Delegations consists of written rules in local authority constitutions through which planning decisions can be delegated to officers. Each authority currently will have their own individual scheme. Although there will be similarities, the detail will vary considerably from authority to authority.
- 3.2** Introducing a “National Scheme of Delegation” was proposed by the Labour government in December 2024 as part of its planning reform

programme. Following a period of formal consultation the final versions of the regulations and the guidance have now been issued by the government as follows: -

- The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (“the regulations”) – made on 15th July 2026 - in force from 31st October 2026.
- The Planning Committees and the National Scheme of Delegations of Planning Functions: Guidance for Local Planning Authorities in England (“the guidance”) – issued on 1st June 2026

Local authorities will need to make changes to their constitutions to ensure they can implement the National Scheme of Delegation from the start date of 31st October 2026.

3.3 The government has identified the following reasons for making the changes:-

- to address inconsistent decision making by planning committees.
- to provide greater consistency and certainty about what decisions go to committee.
- to allow committees to focus on the key issues of the area, enabling other often more minor and technical decisions to be made by planning officers.

3.4 Members will already be familiar with the practice of most minor applications being delegated to officers. This is achieved under the current scheme of delegations for planning, the main exception to this rule being where applications may be “called in” by Members. The scheme of delegations also provides for other more significant applications to be decided by Planning Committee.

3.5 According to government data for the year to December 2025, local authorities already delegate more than 96% of planning decisions to officers, although the rate varies between different authorities. In Bromsgrove there is already a significant number of officer delegated decisions being made.

Regulations to establish a two-tier National Delegation Scheme

3.6 The regulations and the guidance form the framework for local authorities to implement the National Scheme of Delegations. 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.

- 3.7 Under the Regulations planning applications are to be 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.
<i>Examples: householder, minor residential, minor commercial, discharge of conditions, lawful development certificates, prior approval</i>	<i>Examples: major applications, listed building consent matters, reserved matters applications for large outline permissions.</i>

For context, a minor residential application relates to a development of between 1 and 9 dwellings that is to be carried out on a site with an area smaller than 0.5 hectares.

- 3.8 Under the new scheme, the ability of Members to “call-in” planning applications in their wards will cease to apply. The replacement trigger test for a planning application being referred to Planning Committee is set out in Regulation 5 (3) and is known as the Gateway Test which is described in more detail at paragraph 3.13.
- 3.9 Although this will represent a change to the way in which Members engage with individual planning cases, opportunities to raise planning issues and represent community concerns will still be available through the consultation process. Where applications are determined at Planning Committee, public speaking rights will continue to apply. As set out at paragraph 3.33, for Schedule 2 applications ward members will have the ability to submit representations to the Assistant Director of Planning, Leisure and Culture Services if they consider the application should be referred to Planning Committee.

Nominated Officers and Nominated Member

- 3.10 Under Regulation 3 the Council must appoint a “nominated officer” and a “nominated member”. These 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.
- 3.11 The Guidance recommends that the role of nominated officer should be taken on by the person in the organisation who acts as the Chief Planning Officer. For Bromsgrove this is Ruth Bamford - Assistant Director of Planning Leisure and Culture Services. The role of nominated officer should be held by the Chair of Planning Committee.
- 3.12 Provision needs to be made for the two roles to have deputies in case of absence. The amended Scheme of Delegation therefore provides that the nominated officer will be the Assistant Director of Planning Leisure and Culture Services, and in her absence a nominated deputy will act; the nominated member will be the Chair of the Planning Committee, and in his or her absence the deputy will be the Vice Chair of Planning.

Schedule 1 applications

- 3.13 Regulation 4 provides that Schedule 1 applications must be decided by officers under delegated powers. The Council has made arrangements for this in the Scheme of Delegations for Development Management at which cross refers to the list of application types set out in Schedule 1.

Schedule 2 applications

- 3.14 Under Regulation 5, Schedule 2 applications may be determined either by officers under delegated powers or by committee. 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.
- 3.15 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.

3.16 As noted at paragraph 3.10, 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.

3.17 The aim would be to reach consensus on which cases are referred to committee. However, where agreement is not possible the case must be delegated to officers under Regulation 5 (3).

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

3.18 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.

3.19 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 Schedule 2 that were traditionally decided by officers under delegated powers such as advertisement consents and applications to carry out works to trees protected by TPOs.

3.20 The guidance document itself, along with supplementary guidance issued by the Planning Advisory Service, provide that Councils can through their constitutions Council filter out some Schedule 2 matters that need not be referred to the Gateway Test. Officers are recommending this approach so as to maintain the previous levels of delegation and ensure that the Gateway Test is not overwhelmed.

3.21 The version of the Scheme of Delegations proposed to be adopted by the Council for Schedule 2 applications has been modelled to enable

similar levels of delegation as existed under the old scheme to continue. This will enable applications previously decided by officers under the old scheme of delegations to 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.

- 3.22 Members are referred to the wording of the Schedule 2 matters set out in the amended Schemes of Delegation at Appendices 3 and 4 for specific wording for each subject area.

Regulation 6 – Own-interest Applications

- 3.23 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.
- 3.24 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.
- 3.25 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.
- 3.26 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.
- 3.27 Whilst the guidance indicates that there is discretion for own-interest applications to be decided by officers under delegated powers, officers are proposing that 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 Conduct.
- 3.28 For reference the Planning Code of Conduct states as follows:-

- 10.6 *Applications of currently serving Members should not be dealt with under delegated powers and should be decided by the Planning Committee.*
- 10.9 *Applications for Planning Consents made to Bromsgrove District Council by Officers currently working for either Bromsgrove District Council or Redditch Borough Council or their family members, whether or not directly employed by them, should not be dealt with under delegated powers and should be decided by the Planning Committee.*
- 10.10 *Planning applications made by Council Service Areasshall be considered by the Planning Committee and not determined under delegated powers.*
- 3.29 The arrangements made by the Council for own interest applications are set out in the Scheme of Delegations for Development Management and in the Planning Code of Practice.

Practical arrangements to implement the regulations

- 3.30 Upon receipt new 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
- 3.31 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 and any own-interest applications. This will be known as the Gateway Meeting.
- 3.32 Officers will prepare a case summary for any applications being considered at the Gateway Meeting to indicate whether in their view the application raises issues under either Ground A or Ground B.
- 3.33 Ward members are notified of applications within their ward. Members who consider that a Schedule 2 application should be referred to Planning Committee may submit representations to the Assistant Director of Planning, Leisure and Culture Services. The representations must address the criteria in Ground A and Ground B, and must be submitted within 21 days of being notified. A form will be developed which Members could choose to use to assist with this.

- 3.34 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.
- 3.35 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.
- 3.36 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. As noted in paragraphs 3.24 and 3.25, for reasons of openness and transparency, there will be a presumption in favour of referral to committee.

Conclusion

- 3.37 To summarise, under the new arrangements, planning applications will be determined as follows: -

By Planning Committee

- Schedule 2 applications which meet the Gateway Test
- Own-interest applications referred by the nominated officer and nominated member

By officers under delegated powers

- All Schedule 1 applications
- Schedule 2 applications which do not meet the Gateway Test
- Any own-interest applications delegated to officers

- 3.38 Officers are of the view that there would be benefit in monitoring how the New Scheme of Delegations is working given that the changes will be a significant departure from previous practices. Accordingly, Members are referred to recommendation 1.6 which sets out that there be a review of the operation of the new arrangements by the Constitution Review Working Party after 6 months.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications associated with this report that have been identified.

5. LEGAL IMPLICATIONS

- 5.1 In accordance with powers conferred under the Town and Country Planning Act 1990, the Secretary of State has issued the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. The purpose of the regulations is to set up a National Scheme of Delegation for planning functions. The requirement to comply with the regulations is mandatory and the Council has no choice but to adopt them and to up date its planning processes and practices accordingly.
- 5.2 The amended scheme of delegations must mirror the contents of Schedule 1 and Schedule 2 of the Regulations. Some exceptions can be made for Schedule 2 matters as set out in paragraphs 3.16 to 3.19 above.
- 5.3 The government has advised that “Where a planning function is not listed in either Schedule 1 or 2, it is for the local planning authority to decide whether it should be delegated to an officer or referred to a committee or sub-committee for a decision”.
- 5.4 Nominated officers and nominated members should make every effort to reach agreement on which cases should be referred to committee. However, where agreement is not possible, the case must be delegated to officers under regulation 5(3).
- 5.5 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.

6. OTHER - IMPLICATIONS

Local Government Reorganisation

- 6.1 There are no immediate implications for Local Government Reorganisation; in the longer term work will have to be done by officers to ensure that from vesting day the new authority is acting in accordance

with one uniform scheme of delegations for planning applications; the introduction of the regulations should assist with this by already aligning parts of the decision making framework for planning matters.

Relevant Council Priority

- 6.2 The steps outlined in this report are mandatory and must be adopted regardless of any council priorities.

Climate Change Implications

- 6.3 There are no relevant climate change implications.

Equalities and Diversity Implications

- 6.4 It is not considered that there are any implications for equalities and diversity.

7. RISK MANAGEMENT

- 7.1 The following risks have been identified: -

Risk	Mitigation
Failure to implement the new regulations leading to risk of legal challenge by way of judicial review of planning decisions made after 31 st October 2026	Regulations and guidance will be adopted to come into effect on 31 st October 2026
Risk that the number of applications being referred to the Gateway Test would be overwhelming, leading to delay and reputational damage.	This risk is being mitigated by adopting a scheme that provides for previous levels of delegation to continue.
Risk of disruption caused by introduction of changes set out in the regulations, and potential impact on Members, staff and service users	This is being mitigated by: - • Training and support to Chair and Vice Chair of Planning Committee • Briefing of all Members as to the changes • Briefing and training for Members who sit on Planning Committee • Briefing and training of staff

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	• Update to information on website
Risk of own interest applications being delegated to officers	This is being mitigated by the provisions for own-interest applications to continue to be decided in an open and transparent way through decisions being taken at Planning Committee.

8. APPENDICES and BACKGROUND PAPERS

Background Papers

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

[The Town and Country Planning \(Discharge of Local Planning Authority Functions\) \(England\) Regulations 2026](#)

The Planning Committees and the National Scheme of Delegations of Planning Functions: Guidance for Local Planning Authorities in England

[Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England - GOV.UK](#)

Appendices

Appendix A - Scheme of Delegations for Development Management

Appendix B - Scheme of Delegations for Trees

Appendix C - Planning Committee Procedure Rules

Appendix D - Planning Code of Practice

BROMSGROVE DISTRICT COUNCIL

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9. REPORT SIGN OFF

Department	Name and Job Title	Date
Portfolio Holder	Cllr Karen May - Leader of the Council and Chair of Constitution Review Working Group	
Lead Director / Assistant Director	Ruth Bamford – Assistant Director – Planning Leisure and Culture Services	
Legal Services	Sarah Sellers – Solicitor Governance and Regulatory	