

PLANNING COMMITTEES AND THE NATIONAL SCHEME OF DELEGATION

08/10/2026

POLICY AND RESOURCES COMMITTEE – 8 OCTOBER 2026
PART I

PLANNING COMMITTEES AND THE NATIONAL SCHEME OF DELEGATION
DoF

1 Summary

1.1 On 31 October 2026, The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 come into effect. These regulations set out:

- The planning and related applications which can only be determined by Officers under delegated powers (listed at Schedule 1 of the Regulations).
- The planning and related applications which there is a presumption the decision is delegated to officers but they are eligible to be considered for determination by Planning Committee (listed at Schedule 2 of the Regulations).
- The maximum membership of the Planning Committee.

1.2 Applications in Schedule 2 can only be referred to Committee if the council's Nominated Officer and Nominated Member agree that a 'Gateway Test' is passed, that is, that in their view the application raises:

- (a) one or more issues of economic, social or environmental significance to the local area, or
- (b) one or more significant planning matters having regard to the development plan and any other material considerations

1.3 Not all Schedule 2 applications should be eligible for consideration under the Gateway Test. It is a matter for the council's constitution to set out which applications are eligible to be considered, and which are not.

1.4 In addition, Own Interest applications may be referred to committee.

1.5 The regulations also set out that the Planning Committee cannot comprise of more than 13 Members.

1.6 This paper sets out details of the impact and implications of the Regulations, Officer's suggested amendments to the constitution to effect the Regulations, and consequential procedural changes that are necessary. It is critical to note that if the constitution is not amended to reflect the Regulations, any decisions made by the council as Local Planning Authority may be in contravention of the legislation and statutory guidance, meaning decisions on whether applications should be delegated to officers or determined by committee, and the planning decision itself, are open to legal challenge/judicial review.

2 Recommendation

2.1 That Policy and Resources recommend to Council:

2.1.1 To agree the process and procedure detailed in Appendix 4, with minor amendments delegated to the Director of Finance and Head of Regulatory

Services in consultation with the Lead Member for Planning and the Chair of the Planning Committee.

2.1.2 To agree the required changes to the constitution and as detailed in Appendix 5 to enable the new regulations, process and procedures to be implemented, including:

2.1.2.1 Define the nominated officer(s)/member(s).

2.1.2.2 Define Own Interest.

2.1.2.3 Receipt of a petition can no longer trigger a committee call-in.

2.1.2.4 Set the maximum number of Planning Committee at 13.

and any other changes required with minor amendments delegated to the Director of Finance and Head of Regulatory Services in consultation with the Lead Member for Planning and the Chair of the Planning Committee:

2.1.3 To delegate authority to the Director of Finance in consultation with the Head of Planning Policy and Conservation to update the Statement of Community Involvement to align with the changes to the constitution, together with such other necessary changes

2.1.4 That public access to the report be immediate.

2.1.5 That public access to the decision be immediate.

Report prepared by: Adam Ralton, Development Management Team Leader

3 Details

3.1 Background

3.1.1 In May 2025, the Government launched a public consultation to seek views on the detailed provisions that could be contained within regulations to set out which planning functions should be delegated to officers and which should go to committee, to control the size of committees, and to impose a requirement for training.

3.1.2 TRDC issued a response to this consultation, which agreed to the majority of the proposed 'Schedule 1' applications (ie those which cannot be referred to committee) except for Reserved Matters applications, which we said should be eligible for committee. TRDC agreed with the principle of the national scheme of delegation but raised concerns regarding accountability and transparency of decision making.

3.1.3 At the end of March 2026, the Government ran a further consultation "Planning committee reforms: statutory consultation on draft Regulations and guidance". This consultation related to those measures introduced through the Planning and Infrastructure Act 2025 which allow the Secretary of State to set out which planning functions should be delegated to planning officers and which should go to a committee, and asked a number of more specific questions. A copy of the Council's response to the consultation is attached at **Appendix 1**. In summary, TRDC raised concerns about the removal of local democratic oversight, the impact on relationships between Members and Officers, and the additional

resource burden that results from the Gateway Test process. Concerns were also raised about Reserved Matters applications being Schedule 1.

3.1.4 On 1 June 2026 the government issued its response¹ to the consultation . They also published Statutory Guidance (**Appendix 2**) to support local planning authorities in England in implementing the national scheme of delegation. Regulations (**Appendix 3**) were also published on this date, which were subsequently made on 15 July 2026 and come into effect on 31 October 2026.

3.1.5 The guidance sets out the aim behind the regulations:

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. Committees 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.

3.2 What do the regulations change

3.2.1 The regulations set out, in their Schedule 1, planning and related applications which can only be determined by Officers. They set out, in their Schedule 2, planning and related applications which are eligible to be considered at Planning Committee, subject to passing a Gateway Test. Local Authorities are required to change their constitution to reflect the Regulations.

3.2.2 The following applications fall into Schedule 1 and from 31 October 2026 can only be determined by Officers:

Application for certificate of appropriate alternative development	Application for listed building lawful development certificate (CLLB)
Householder Planning Application Development for an existing dwellinghouse or within curtilage and purpose incidental.	Minor Commercial Application
Minor Residential Application <i>Includes only dwellings or incidental to dwellings, between 1 and 9 dwellings, less than 0.5ha site. Development of a building containing flats if no change of use or change in number of flats.</i>	Application for Permission in Principle (PIP)
Application under S73 to vary/remove a condition where the original permission was Schedule 1	Application for Non-Material Amendment (NMA)
Request to agree to modify/discharge a planning obligation pursuant to a Schedule 1 approval	Application to modify/discharge a planning obligation pursuant to a Schedule 1 approval
Existing Lawful Development Certificate (CLED)	Proposed Lawful Development Certificate (CLPD)
Submission of Biodiversity Gain Plan (BGP)	Reserved Matters (other than relating to a large outline permission) (AOD)
Discharge of planning condition (DIS)	Application for Prior Approval

¹ <https://www.gov.uk/government/consultations/planning-committee-reform-draft-regulations-and-guidance/outcome/planning-committee-reform-statutory-consultation-on-draft-regulations-and-guidance-government-response>

3.2.3 Examples of the types of application that fall into the above category and therefore can only be determined by officers include:

- applications for extensions to a house.
- the construction of between 1 and 9 houses.
- applications for new shopfronts.
- reserved matters (which follow a grant of outline planning permission) for schemes of fewer than 500 dwellings.
- Applications to change a house into a House in Multiple Occupation (HMO) (as made clear by the Minister for Housing and Planning in June²).

3.2.4 This is regardless of whether a site is within a conservation area, the Green Belt, or any other planning designation. This is in addition to application types where the existing constitution does not allow a committee referral, for example applications for lawful development certificates, prior approval, and discharge of conditions.

3.2.5 The following applications fall into Schedule 2, which must be determined by Officers unless referred to committee:

Application for listed building consent (LBC) (A Schedule 1 application for planning permission connected to an application for listed building consent can fall within Schedule 2)	Application to vary/discharge condition of listed building consent
Application for planning permission relating to an application for listed building consent or application to vary/discharge condition	Application for planning permission which is not a) householder, b) minor commercial, c) minor residential
Application under S73 to vary/remove a condition where the original permission was Schedule 2	Application under S73A for development already carried out (RSP)
Request to agree to modify/discharge a planning obligation pursuant to a Schedule 2 approval	Application to modify/discharge a planning obligation pursuant to a Schedule 2 approval
Reserved Matters in respect of a large outline permission (AOD) 500+ dwellings or 50,000+sqm area	Application for Advertisement Consent
Application for consent under TPO	

3.2.6 Examples of the types of application which fall into this category include:

- applications to build or extend new offices,
- applications for major development (10 or more houses),
- some applications for the change of use of a building or land (including to provide Gypsy and Traveller pitches),
- applications for reserved matters for 500 or more dwellings.

² <https://hansard.parliament.uk/Commons/2026-06-25/debates/64B52F8F-AB4A-424E-A8D3-B62E7B4F7032/houses-in-multiple-occupation>

- 3.2.7 Regulation 5 provides that the nominated member and nominated officer (see definition below) may agree to refer a Schedule 2 application to committee if in their view it raises:
- a) one or more issues of economic, social or environmental significance to the local area, or
 - b) one or more significant planning matters having regard to the development plan and any other material considerations.
- 3.2.8 It is important to note that the test is whether the application raises the issues in (a) or (b), and the recommendation is immaterial.
- 3.2.9 Regulation 6 provides that the nominated member and nominated officer may agree to refer an own interest application to committee. Own interest applications are where the application is made by or on behalf of the authority, a member of the authority, an officer of the authority, or in the view of the nominated member and nominated officer the authority or any of its members or officers otherwise has an interest in the application. The Statutory Guidance recognises that there may be cases where, in the interests of transparency and public accountability, it may be appropriate for some such applications to be referred to a planning committee, whether they are Schedule 1 or 2. Where the nominated officer and member agree, these applications can be referred to committee without the need for consideration of the Gateway Test criteria.
- 3.2.10 Regulation 7 provides that committees must have a maximum of 13 members.
- 3.2.11 The Government have published Statutory Guidance which sits alongside the Regulations. This provides further information in respect of implementing the Regulations and states “as required by section 319ZZE(4) and (5) of the Town and Country Planning Act 1990, local planning authorities must have regard to this guidance in operating or making arrangements required under the Regulations”.
- 3.3 What do the regulations change for planning decision making at Three Rivers
- 3.3.1 Under the current arrangements, applications submitted under the Planning Act, Listed Building and Conservation Areas Act, or Advertisement Regulations are determined by the Head of Regulatory Services if:
- i. an approval accords with the provisions of the development plan
 - ii. the application has not been called in by three Members of the Planning Committee or the relevant Parish Council within the consultation period
 - iii. the decision would not conflict with an objection from an adjoining local authority.
 - iv. The Head of Regulatory Services considers it prudent to exercise their delegated authority.
- 3.3.2 The regulations change this, so that only those applications falling within Schedule 2 and which pass the Gateway Test (set out above from Regulation 5) are referred to committee.
- 3.3.3 It will no longer be possible for Parish Councils to directly call a planning application in for determination at committee. Applications can only be presented to committee if they pass the Gateway Test.
- 3.3.4 In terms of managing the Gateway Process, the Statutory Guidance is clear that:

12. 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.

13. It is not a requirement of the national scheme of delegation that nominated officers and nominated members consider all Schedule 2 applications or all own-interest applications for potential referral to committee. Local planning authorities may, through their constitutions, decide which Schedule 2 or own-interest applications need to be considered for referral. The regulations provide for the option for Schedule 2 applications to be considered for committee against the gateway test but do not require all schedule 2 applications to be considered – they will otherwise be delegated to officer.

14. Where local planning authorities anticipate that there may be a significant number of Schedule 2 or own-interest applications which may need to be considered for referral to committee they may wish to put in place a triage system to ensure that the nominated officer and nominated member of the committee are not overwhelmed and to avoid any unnecessary delays in planning decision making.

- 3.3.5 The constitution will need to be amended to reflect Schedules 1 and 2, including which Schedule 2 applications are eligible to be selected as part of a triage process and considered for the Gateway Test. Officers are proposing a Triage Process (**Appendix 4**), which will set out how applications can be selected for consideration for the Test. The application will only proceed to be determined by Committee if the Gateway Test is passed. At this time, Officers propose to maintain an element of the existing scheme of delegation within the triage process, – for example not allowing applications that cannot currently be determined by committee, to now be considered for determined by committee.

3.4 Required Actions

- 3.4.1 It will be necessary to amend the constitution to include the following:

- 3.4.1.1 Confirm the Nominated Member(s). Statutory Guidance suggests the nominated member should be the chair of planning committee, or vice chair or equivalent member, and that arrangements should be in place for other members to cover. It is proposed that the nominated members should be initially defined using the following cascade:

- i. Planning Committee Chair
- ii. Planning Committee Vice Chair
- iii. Leader of the Council
- iv. Deputy Leader of the Council.

- 3.4.1.2 Confirm the Nominated Officer(s). Statutory Guidance suggests the nominated officer should be the Chief Planning Officer or equivalent officer who has extensive professional planning experience, with others who can provide cover. It is proposed that the nominated officers should be initially defined using the following cascade:

- i. Head of Regulatory Services
- ii. Development Management Team Leaders
- iii. Development Management Principal Planning Officers

- 3.4.1.3 Define 'Own Interest'. The regulations set out that own interest applications are those made by or on behalf of that authority, or a member of that authority, or an officer of that authority, or 'in the view of the nominated member and the nominated officer, the authority or any of its members or officers otherwise has an interest in that application'. It is currently practice at TRDC to take applications to committee where a member or officer is within the consultation area of an application, and it is intended that this would be included in a definition of Own Interest and would also be a factor considered by the nominated member and nominated officer when considering whether to refer to committee. The guidance sets out that this will be in the interests of transparency and public accountability. It is proposed that this definition be adopted and included within the constitution.
- 3.4.1.4 Dealing with Petitions. At present the constitution (Part 4 – Rules of Procedure) requires the Chair and Spokespersons of Planning Committee to be notified of receipt of any petition and enables them to exercise their right to require the matter to be determined by the appropriate committee. This requirement shall be deleted as the regulations only allow for applications to be presented to committee having passed the Gateway Test.
- 3.4.1.5 Set the maximum number of committee members to 13.
- 3.4.2 In addition, officers will need to establish a Triage Process, by which applications can be flagged for consideration under the Gateway Test. See **Appendix 4**.
- 3.4.3 Officers will also need to establish a protocol governing the Gateway Test, which will include how the test will be initiated, attended and recorded. It is intended that the outcome of the Gateway Test will be published. See **Appendix 4**.
- 3.4.4 The Council's Statement of Community Involvement will also require updating, to accurately reflect how planning and related applications will be determined.

4 Options and Reasons for Recommendations

- 4.1 Option 1: Agree the procedure and guidance and amendments to the constitution as detailed in appendix 4 and 5. Amend the constitution as appropriate by 31 October 2026, to ensure that decisions made by the council as Local Planning Authority are lawful.
- 4.2 Option 2: Agree amendments to the procedure, guidance, and/or constitution. Amend the constitution as appropriate by 31 October 2026, to ensure that decisions made by the council as Local Planning Authority are lawful.
- 4.3 Option 3: Do nothing. If the constitution is not amended, any decisions made by the council as Local Planning Authority would be in contravention of the legislation and statutory guidance, meaning decisions on whether applications should be delegated to officers or determined by committee, and the planning decision itself, open to legal challenge/judicial review.

5 Policy/Budget Reference and Implications

- 5.1 The recommendations in this report are necessary to ensure that decisions made by the council as Local Planning Authority are lawful.

Financial, Equal Opportunities, Environmental, Community Safety, Public Health, Customer Services Centre, Health & Safety Implications

None specific.

6 Legal Implications

- 6.1 The constitution and the council's procedures must be updated to comply with the abovementioned regulations, and planning decisions must be taken in accordance with the updated procedures from 31 October 2026. Failure to comply with the Regulations may lead to planning decisions being unlawful and subject to risk of judicial review, with the potential for decisions to be quashed.

7 Equal Opportunities Implications

- 7.1 Relevance Test

Has a relevance test been completed for Equality Impact?	No
The changes are required as a result of government legislation.	

8 Staffing Implications

- 8.1 Compliance with the regulations will require the Nominated Officer(s) to increase the number of scheduled meetings with the Nominated Member(s). Planning Case Officers will be required to review the details of their planning applications earlier in the planning process, in order to attend the meetings and provide an effective briefing as part of the Gateway Test process. These are generally additional tasks that will have some operational impact. Staff resource implications will need to be reviewed periodically.
- 8.2 Other operational implications include fewer planning staff having applications presented to committee, meaning staff have reduced exposure to and experience of the planning committee process.

9 Communications and Website Implications

- 9.1 It will be necessary to establish how the timings of the meetings between the Nominated Officer and Member are agreed and communicated internally. It will also be necessary to consider how the outcome of any meetings are published (expected to be within the planning online section of the website).
- 9.2 It will also be necessary to communicate these changes with Councillors, Parish Councils and residents so that all understand the new scope of Planning Committee, the applications it can and cannot consider, and how eligible applications can be referred. This communication will need to take place before the regulations come into effect.

10 Risk and Health & Safety Implications

- 10.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. The risk management implications of this report are detailed below.

Nature of Risk	Consequence	Suggested Control Measures	Response (tolerate, treat, terminate, transfer)	Risk Rating (combination of likelihood and impact)
Failure to update the constitution prior to 30 October 2026	Decisions made on planning applications may not be lawful, and may be subject of challenge via judicial review, with a risk of decisions being quashed.	Ensure constitution is updated by 30 October 2026	Treat	6-8
Failure to adopt new legislative requirements and introduce new processes	Decisions made on planning applications may not be lawful, and may be subject of challenge via judicial review, with a risk of decisions being quashed.	Ensure new processes and requirements are adopted	Treat	6

10.2 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Likely Likelihood Remote	Low 4	High 8	Very High 12	Very High 16
	Low 3	Medium 6	High 9	Very High 12
	Low 2	Low 4	Medium 6	High 8
	Low 1	Low 2	Low 3	Low 4
	Impact Low -----> Unacceptable			

Impact Score

4 (Catastrophic)
 3 (Critical)
 2 (Significant)
 1 (Marginal)

Likelihood Score

4 (Very Likely (≥80%))
 3 (Likely (21-79%))
 2 (Unlikely (6-20%))
 1 (Remote (≤5%))

- 10.3 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

Background Papers**APPENDICES / ATTACHMENTS**

Appendix 1 – TRDC Response to Government consultation on Committee Reforms

Appendix 2 – Statutory Guidance - Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England (1 June 2026)

Appendix 3 - The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026

Appendix 4 – Process Notes

Appendix 5 – Changes to Constitution

