

AUDIT AND GOVERNANCE COMMITTEE



Report subject	Review of the Council's Constitution - Recommendations of the Constitution Review Working Group - Planning Reforms
Meeting date	3 September 2026
Status	Public Report
Executive summary	This report seeks approval to amend the Council's Constitution to reflect the national scheme of delegation for local planning authority functions introduced by the Planning and Infrastructure Act 2025 and the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026, which come into force on 31 October 2026. The Regulations significantly restrict the circumstances in which planning applications may be referred to Planning Committee and replace existing local referral mechanisms, including Ward Member call-ins and objection-based triggers. The report explains the distinction between Schedule 1 applications, which must be determined by officers, and Schedule 2 applications, which are presumed to be delegated unless the statutory gateway test is met and the nominated officer and nominated member agree referral to committee. The recommended approach is to amend the Constitution to comply with the national scheme, establish nominated officer and nominated member arrangements, retain appropriate transparency through decision records and reporting, and provide clear information for Members and the public. While the Council has limited discretion over the national requirements, the proposed amendments are intended to ensure lawful implementation, reduce the risk of legal challenge, and maintain effective, transparent and accountable planning decision-making.
Recommendations	It is RECOMMENDED that: (a) in relation to the new national scheme of delegation of planning functions, the proposed amendments to Parts 2, 3, 4 and 6 of the Constitution, as set out in Appendix 3 to this report, be approved and take effect from 31 October 2026;

	(b) the Chief Operations Officer be delegated authority to appoint and amend any appointment of nominated officer(s) under the 2026 Regulations; (c) the Chairs and Vice-Chairs of the two respective committees be appointed as the nominated members and substitute members from 31 October 2026 but the respective planning committees be delegated authority to appoint and amend the appointment of the nominated member(s) under the 2026 Regulations; (d) officers be authorised to prepare and publish appropriate guidance and communications for Members, officers and the public explaining the revised arrangements for planning referrals and decision-making under the national scheme of delegation; (e) officers monitor the operation of the revised arrangements, including the volume and nature of referral requests, decision records, committee referrals and any associated operational or resource impacts, to inform the review by the Constitution Review Working Group after six months of operation; (f) the Constitution Review Working Group undertake a review of the arrangements after six months of operation and recommend any changes, if any, that may be considered necessary; (g) any necessary and consequential technical and formatting related updates and revisions to the Constitution be made by the Monitoring Officer in accordance with the powers delegated.
Reason for recommendations	To make appropriate updates and revisions to the constitution following consideration by the Working Group.
Portfolio Holder(s):	Not applicable
Corporate Director	Aidan Dunn (Chief Executive)
Report Authors	Richard Jones (Head of Democratic Services and Deputy Monitoring Officer) Simon Gould (Development Management Manager) Katie Herrington (Development Management Manager)
Wards	Not applicable
Classification	For Recommendation

Background

1. The Terms of Reference of the Audit and Governance Committee include 'Maintaining an overview of the Council's Constitution in respect of financial regulations, working protocols and codes of conduct and behaviour (not otherwise reserved to the Standards Committee or other committees)'.
2. In discharge of this responsibility the Committee established a Constitution Review Working Group of five of its Councillors. The current members of the Working Group are Councillor Connolly (Chair) and Councillors Andrews, Armstrong, Beesley and Weight. Since its establishment in July 2020, the Working Group has continued to meet to consider requests for change. The Group receives advice from various officers including the Monitoring Officer and Head of Democratic Services. From time to time, as required, Officers and Councillors with specialist responsibility have been invited to have an involvement.

Format

3. Throughout the work of the Group a 'Forward Plan' of issues has been maintained and added to as additional issues have arisen. This approach will continue to be adopted for capturing future issues.
4. Any proposed changes to the Constitution are shown with track changes in the appendices to this report. Any page number references are to pages within the current published Constitution.

Options Appraisal

5. The Working Group considers carefully whether or not changes are necessary on each issue raised. If supported the Working Group determines the proposed alterations to the wording which forms the basis of the recommendations to the Audit and Governance Committee. This report sets out the proposed changes following those deliberations in relation to the Planning Committee Reforms.
6. This report is seeking changes to various parts of the Constitution required to respond to the Planning and Infrastructure Act 2025 and The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 which come into force on 31 October 2026.

Engagement with Planning Committee Members

7. Before determining the proposed way forward set out in this report, the Chair of the Constitution Review Working Group convened an online meeting with members of the Planning Committees on 10 August 2026. The purpose of the meeting was to enable officers to outline the changes arising from the national scheme of delegation and to hear the views of councillors closely involved in the planning process. Following that discussion, the Chair of the Working Group summarised the principal issues raised by members as set out in the table below together with the officer response. The feedback received has helped shape the proposed local implementation arrangements.

Issue raised	Summary of concern	Officer response / how addressed
Review of operation in practice	Members considered that the revised arrangements should be reviewed after implementation, including whether the current two-committee planning structure remains appropriate.	The recommendations provide for a six-month review by the Working Group. Officers consider that the immediate priority is lawful implementation by 31 October 2026, with any wider structural issues, including whether to retain two Planning Committees, considered once operational evidence is available.
Councillor advocacy and referral requests	Members sought clarity on how councillors can advocate for residents on Schedule 1 applications and how they may request that a Schedule 2 application be considered for committee referral.	Members will continue to be able to make written representations on all planning applications. For Schedule 2 applications, Appendix 1 proposes a councillor referral request form to support a clear and transparent process for asking the nominated member and nominated officer to apply the gateway test. This should also help manage the risk of councillors attempting to, or being perceived as attempting to, place undue pressure on the nominated persons outside the formal process.
Recording Schedule 2 decisions	Members asked how decisions will be recorded where Schedule 2 applications are, or are not, proposed for committee consideration.	The report proposes that a decision record be generated where the nominated member and nominated officer consider whether an application should be referred to committee. Appendix 2 provides a draft decision record. Schedule 2 applications may reach the nominated persons through either a councillor referral request or an officer referral following professional assessment by the case officer and review by an appropriate senior planning officer. Officers do not recommend a disproportionate requirement to create a formal decision record for every Schedule 2 application irrespective of whether it has been identified for referral consideration. However,

Issue raised	Summary of concern	Officer response / how addressed
		where officers consider during routine case management whether a Schedule 2 application should be escalated to the nominated persons, an appropriate file note should be recorded on the planning file. Where an application is placed before the nominated persons, their deliberation will follow a structured process and a decision record will be completed for every referral considered.
Burden on nominated officer and nominated member	Members raised concern about the potential workload falling on the nominated officer and nominated member, and whether more than two nominated members should be appointed.	The recommended initial approach is to appoint the Chairs of the two Planning Committees, with Vice-Chairs as substitutes, as a pragmatic starting point. The Regulations allow different nominations for different purposes, and the recommendations enable the Planning Committees to amend nominated member arrangements if experience shows that a wider model is required.
Transparency of nominated individual decisions	Members were concerned that referral decisions should not take place informally or without an adequate record.	The report proposes a structured process for cases considered by the nominated member and nominated officer, a decision record for every referral considered, publication of relevant records on the public register, and a formal six-month review informed by monitoring of issues, concerns, referral patterns and operational feedback.
Constitution should avoid naming individuals	Members considered that the Constitution should be sufficiently flexible and should not require amendment whenever individual officer responsibilities change.	The recommendations use role-based and delegated appointment arrangements. It is proposed that the Chief Operations Officer be delegated authority to appoint and amend nominated officer arrangements, avoiding the need to name individual officers in the Constitution.
Selection of nominated member(s)	Members queried whether the Planning Committees should determine who undertakes the nominated	The recommendations provide for the Chairs and Vice-Chairs to undertake the role initially from 31 October 2026, but delegate authority to the

Issue raised	Summary of concern	Officer response / how addressed
	member role, given the importance of the responsibility.	respective Planning Committees to appoint and amend nominated member arrangements. This provides immediate certainty while preserving local flexibility. This will further provide capacity should a conflict of interest exist.
Councillor-suggested conditions	Members suggested that councillors should be able to propose conditions on approvals where they consider this would address planning concerns.	The report confirms that Members may include suggested planning conditions or informatives in their representations. The final decision on whether any condition is lawful and appropriate will remain with the decision-maker, applying the usual tests of necessity, relevance to planning, relevance for the development to be permitted, enforceability, precision and reasonableness.

8. The engagement with Planning Committee members has therefore informed the proposed local implementation arrangements, including the referral request form, decision record, nominated officer and member arrangements, transparency measures and the proposed six-month review. Not all operational detail needs to be set out in the Constitution itself, but officers will prepare supporting guidance for Members and officers to ensure the revised process is understood and applied consistently.

National Scheme of Delegation of Planning Functions

9. The government is introducing major structural reforms to modernise local authority planning committees in England, with the final regulations scheduled to legally come into force on **31 October 2026**. Enabled by the Planning and Infrastructure Act 2025 and The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026, these changes aim to accelerate housebuilding by streamlining decision-making and standardising how local committee's function.
10. 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.
11. 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 the planning committee.

12. The Secretary of State has exercised this power through the 2026 Regulations. These regulations set out types of applications where decisions:
 1. must be delegated to officers in all cases (as set out in Schedule 1) and
 2. are presumed to be delegated to officers unless (as set out in Schedule 2):
 - i. they meet at least one of the criteria in regulation 5(3) or
 - ii. they have regard to the provision in regulation 5(4);
 - iii. they are Own Interest Applications – an application made by or on behalf of a local authority, a member or officer of that local authority or an entity owned or controlled (whether wholly or partly) by that authority or any of its members or officers (whether or not it is made jointly with another person) (regulation 6);
 - iv. **and** the nominated officer(s) and nominated member(s) of the planning committee agree they should be referred to the planning committee for determination.
13. 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 the committee for a decision (as part of its local constitution).
14. Under the national scheme of delegation, current practices set out in the local authority constitution, such as the power for Ward Councillors to require cases to be called-in for committee consideration or having trigger points for referral to committee if a certain number of objections/letters of support are reached, will not be possible. Local authorities need to amend their constitutions to align with the national scheme of delegation.

Implementation Timeline

15. Planning authorities must officially amend their constitutions to match the new rules.
16. Local authorities that fail to comply by the 31 October 2026 date risk having their committee decisions overturned via judicial review.
17. There are likely to be planning applications with a valid referral reason as set out by the existing constitution in the lead up to 31 October 2026 where it will not be possible for these applications to be heard at the committee by this date. As an example, the planning application might still be in the early stages of assessment.
18. Every effort will be made to determine applications in a timely manner. However, the reason for referral might fall away under the constitution. From 31 October 2026 it will not be possible for the planning committee to determine applications which do not adhere to the new constitution given the risk of judicial review.
19. Notwithstanding, paragraph 2.9 of Part 3 'Responsibility for Functions and Officer Scheme of Delegation' (appendix 3) makes provision to refer applicable schedule 2 planning applications to committee that have been received as valid prior to 31 October 2026 provided referral now adheres to the new scheme of delegation.

What is NOT changing

20. Whilst the Planning and Infrastructure Act 2025 and the new National Scheme of Delegation will change how certain planning applications are referred to and determined by Planning Committees, many important aspects of the planning system will remain unchanged. The reforms are primarily concerned with the decision-making route for applications rather than the fundamental planning process itself. Applications will still be assessed against the Development Plan and other material planning considerations, which includes the National Planning Policy Framework (new version published on 27 August 2026), and there will continue to be opportunities for residents, councillors, statutory consultees and other interested parties to make representations that inform the decision-making process.
- Planning applications will continue to be submitted, validated, registered and processed by the Council in the normal way.
 - Statutory consultation, publicity and notification requirements will continue to apply.
 - Site notices, neighbour notifications and press notices (where required) will still be carried out.
 - Residents, businesses, community groups, parish and town councils, and statutory consultees will continue to be able to submit comments and representations.
 - Councillors will continue to be able to make representations on planning applications and advocate on behalf of residents.
 - Representations can continue to be made on both Schedule 1 and Schedule 2 applications.
 - All representations received during the consultation period will continue to be considered as part of the decision-making process.
 - Planning officers will continue to assess applications against national planning policy, the Development Plan and other material planning considerations.
 - Officer reports and written assessments will continue to explain how applications have been considered and why decisions have been reached.
 - Planning conditions may still be imposed where appropriate and lawful.
 - Planning obligations and Section 106 agreements will continue to be negotiated where necessary.
 - Decision notices will continue to be issued setting out the formal decision and any conditions or reasons for refusal.
 - Applicants will continue to have rights of appeal against refusals, non-determination and certain conditions.
 - Enforcement powers and the Council's ability to investigate alleged breaches of planning control will remain unchanged.

- The Planning Committees will continue to exist and will continue to determine those applications that fall within the circumstances prescribed by the Regulations.
 - Planning Committee meetings will continue to be held in public and decisions made by committees will remain transparent and accountable.
 - Members of the public will continue to be able to observe Planning Committee meetings and participate where the Council's public speaking arrangements allow.
 - The statutory requirement for planning decisions to be made fairly, lawfully and without bias remains unchanged.
 - Judicial review and other legal challenge mechanisms remain available where appropriate.
 - Local planning authorities will continue to be responsible for delivering planning services and implementing local planning policy.
21. In summary, the reforms do not remove local democratic input into the planning process, but they do significantly change its effect on the decision-making route. For Schedule 1 applications, committee determination will no longer be available unless the application falls within the own-interest provisions and the nominated officer and nominated member agree referral. For Schedule 2 applications, there will be no automatic route to committee through Ward Member call-in or objection-based triggers; instead, referral will depend on the statutory gateway test being met and the nominated officer and nominated member agreeing that the application should be determined by committee.
22. Councillors and residents will continue to be able to raise concerns, provide local knowledge and make representations, and those representations must continue to be taken into account by the decision-maker.

What is prescribed and where does the Council have discretion?

23. The national scheme of delegation prescribes the core decision-making framework for planning applications from 31 October 2026. The Council therefore has limited discretion over whether applications within Schedule 1 or Schedule 2 may be determined by officers or referred to committee. However, the Council does retain discretion over the local arrangements needed to operate the scheme effectively, transparently and proportionately.

Area	Prescribed by the Regulations	Local discretion retained by the Council
Schedule 1 applications	These must generally be determined by officers and cannot be referred to committee unless they fall within the own-interest provisions and the nominated officer and nominated member agree referral.	The Council may determine how Members, residents and other interested parties are supported to make representations on Schedule 1 applications.

Area	Prescribed by the Regulations	Local discretion retained by the Council
Schedule 2 applications	These are presumed to be delegated to officers unless the statutory gateway test is met, or the application is an own-interest application, and the nominated officer and nominated member agree referral to committee.	The Council may determine the local process for requesting referral, triaging requests, recording decisions and reporting outcomes.
Ward Member call-ins and objection triggers	Existing local mechanisms which automatically require committee referral, such as Ward Member call-ins or objection-based triggers, cannot continue where they are inconsistent with the national scheme.	The Council may provide alternative routes for Members and the public to make representations and may publish guidance explaining how concerns can be raised under the revised arrangements.
Nominated officers and nominated members	Referral to committee depends on agreement between the nominated officer and nominated member where the Regulations permit referral.	The Council may appoint different nominated officers or members for different purposes and may make cover or substitution arrangements to avoid delay.
Committee structure	Planning committees may only determine applications within the circumstances permitted by the Regulations.	The Council may retain its existing committee structure, subject to the statutory limit on committee size and the need to keep arrangements under review.
Transparency and reporting	The Regulations prescribe when committee referral is permitted. Existing local call-in or objection-trigger mechanisms cannot be retained where they would require or permit referral outside the circumstances allowed by the Regulations.	The Council may publish decision records, provide periodic reports, update application reports and issue public and Member guidance to support transparency and accountability.

24. In practice, the Council's discretion is therefore not whether to adopt the national scheme, but how best to implement it locally. The proposed amendments seek to comply with the prescribed requirements while retaining, so far as possible, transparent local processes for referral requests, Member involvement, public representations, decision recording and future review.

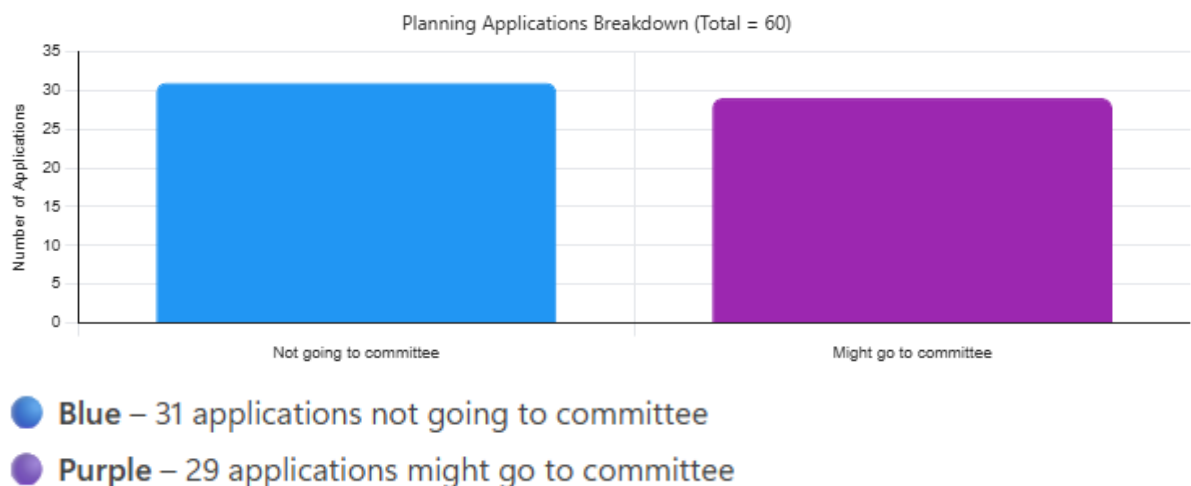
Notable Required Changes

25. The locally established methods used to refer planning applications to the Planning Committee are being abolished.
26. No Ward Member Call-ins: Local ward councillors will lose their automatic power to “call-in” an application to be heard by the committee.
27. No Public Objection Triggers: Applications will no longer automatically trigger referral to the planning committee if they receive a high number of objections/letters of support contrary to the Officer recommendation.
28. Transparency Exception: Special exceptions are made for “own-interest” applications (such as applications submitted by the council itself or its officers/ members) which can still be referred to the committee for public accountability.

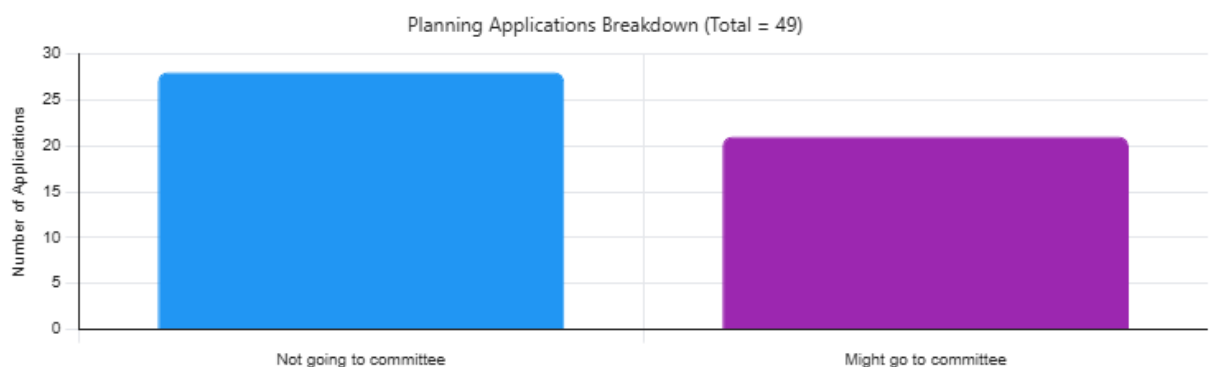
Impact on Number of Applications Referred to Committee

29. As a comparison, data for the period 1 April 2024 to 31 March 2026 below shows the approximate reduction in the number of planning applications which would have been referred to the Planning Committee if they had been subject to the new national scheme of delegation:

30. Eastern BCP Planning Committee: 52% reduction



31. Western BCP Planning Committee: 58% reduction



-  **Blue** – Not going to committee (28)
-  **Purple** – Might go to committee (21)

Size and Number of Committees

32. There can be no more than 13 members of the planning committee. This is a maximum figure designed to accommodate local planning authorities where members are from multiple political parties. However, it is advised that local planning authorities should consider whether a smaller number of members would be more appropriate in their area to support effective decision making.
33. It will be possible to retain the Eastern and Western Planning Committees. However, it might be necessary to consider the amalgamation of these Planning Committees in the future given the expected reduction in the number of planning applications that will be heard by the Planning Committees. This is not an issue which is being considered at this stage and does not need to be decided by 31 October 2026.

The New Approach: Schedule 1 and Schedule 2

34. From 31 October 2026, planning applications will fall within either Schedule 1 or Schedule 2.

Schedule 1 Functions

Applications that must be determined by an officer

35. The functions which fall within Schedule 1 of the Regulations are:
 1. An application made under section 17(1) of the Land Compensation Act 1961 (certificates of appropriate alternative development).
 2. An application made under section 26H(1) of the Listed Buildings Act (certificate of lawfulness of proposed works).
 3. A householder application.
 4. A minor commercial application.
 5. A minor residential application.
 6. An application for permission in principle.
 7. (1) An application made under section 73(1) of TCPA 1990 (application to develop land without compliance with conditions previously attached) in respect of which the original planning permission was a Schedule 1 planning permission.
(2) In this paragraph—
“original planning permission” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions were granted under section 73(1) of TCPA 1990;
“Schedule 1 planning permission” means a planning permission granted pursuant to an application which is of a kind specified in this Schedule.

8. An application made under section 96A(4) of TCPA 1990 (non-material changes to planning permission or permission in principle).
9. (1) In respect of a planning obligation that the authority concerned considers is connected with a Schedule 1 approval—
 - (a) a request to agree to modify or discharge that obligation under section 106A(1)(a) of TCPA 1990 (modification and discharge of planning obligations);
 - (b) an application to modify or discharge that obligation under section 106A(3) of TCPA 1990 (modification and discharge of planning obligations).

(2) In this paragraph "1 approval" means any permission, agreement, consent or approval (other than a planning obligation) pursuant to an application which is of a kind specified in this schedule.
10. An application made under section 191(1) of TCPA 1990 (certificate of lawfulness of existing use or development).
11. An application made under section 192(1) of TCPA 1990 (certificate of lawfulness of proposed use or development).
12. The submission of a biodiversity gain plan under paragraph 13(2)(a) of Schedule 7A to TCPA 1990.
13. A reserved matters approval application in respect of an outline planning permission other than a large outline permission.
14. An application made under article 27 (1) of The Town and Country (Development Management Procedure) (England) Order 2015 (applications made under a planning condition).
15. An application pursuant to provision in Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 for—
 - (a) prior approval, or
 - (b) a determination as to whether prior approval is required.
36. However, the application will fall within Schedule 2 where:
 - a Schedule 1 application for planning permission is connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent
 - an application would otherwise fall under Schedule 1 but is made under section 73A of the Town and Country Planning Act 1990
 - an application would otherwise fall under Schedule 1 but is made by or on behalf of a local authority, a member or officer of that local authority or an entity owned or controlled (whether wholly or partly) by that authority or any of its members or officers

Schedule 2 Functions

Applications that may be determined by a committee or by an officer

37. The functions which fall within Schedule 2 of the Regulations are:

1. An application for listed building consent made under section 10(1) of the Listed Buildings Act (making of applications for listed building consent).
2. An application made under section 19(1) of the Listed Buildings Act (variation or discharge of conditions of listed building consent).
3. An application for planning permission that the authority concerned considers is connected with an application of a kind specified in paragraph 1 or 2.
4. An application for planning permission that is not—
 - (a) a householder application,
 - (b) a minor commercial application, or
 - (c) a minor residential application.
5. (1) An application made under section 73(1) of TCPA 1990 (application to develop land without compliance with conditions previously attached) in respect of which the original planning permission was a Schedule 2 planning permission.

(2) In this paragraph—

“original planning permission” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions were granted under section 73(1) of TCPA 1990;

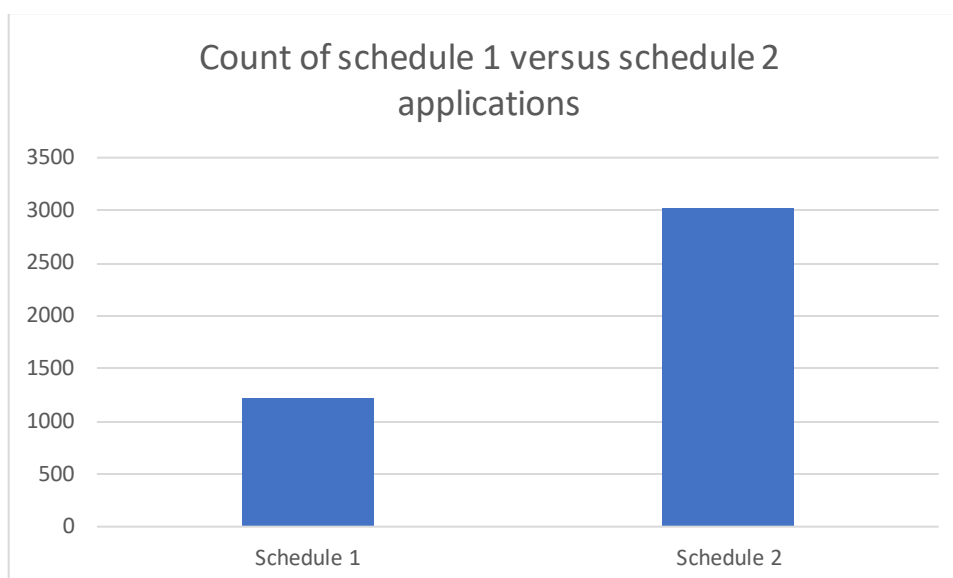
“Schedule 2 planning permission” means a planning permission granted pursuant to an application which is of a kind specified in this Schedule.
6. An application made under section 73A(1) of TCPA 1990 (planning permission for development already carried out).
7. (1) In respect of a planning obligation that the authority concerned considers is connected with a Schedule 2 approval—
 - (a) a request to agree to modify or discharge that obligation under section 106A(1)(a) of TCPA 1990 (modification and discharge of planning obligations);
 - (b) an application to modify or discharge that obligation under section 106A(3) of TCPA 1990 (modification and discharge of planning obligations).
(2) In this paragraph, “Schedule 2 approval” means any permission, agreement, consent or approval (other than a planning obligation) pursuant to an application which is of a kind specified in this Schedule.
8. A reserved matters approval application in respect of a large outline permission.
9. An application made under regulation 9 (1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (application for express consent to display advertisement).
10. An application made under regulation 16 (1) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (application for consent under tree preservation order).

Presumption in Favour of Delegated Decisions

38. The Government's statutory guidance for local planning authorities at paragraph 21 states 'The overriding presumption is that applications listed in Schedule 2 will be delegated to officers'. An application can be referred to committee only where:
- (a) at least one of the criteria in regulation 5(3) is met or it is an own-interest application (regulation 6); and
 - (b) the nominated officer and nominated member of the planning committee agree to the referral.
39. For these purposes:
- (a) the nominated officer should be the Chief Planning Officer or equivalent officer who has extensive professional planning experience. The Head of Planning Operations is suggested for this role. However, it will be necessary to ensure that there are other senior planning officers who can provide cover if needed to avoid any unnecessary delays in the referral process. It is suggested that the Development Management Managers adopt this role. It is proposed that the Chief Operations Officer be delegated authority to appoint and amend the nominated officer(s) to perform this function as necessary.
 - (b) the nominated member could be the Chair of the planning committee or, where such a role does not exist, the equivalent member. It has been suggested by Officers that the Chairs of the Eastern and Western Planning Committees adopt this role although some Members consider this too narrow and would like to consider widening the role beyond one or two individuals. The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 state at paragraph 3(2) "when nominating a member or officer, a relevant Local Planning authority may (a) nominate different members or officers for different purposes". It would seem therefore that the regulations establish the principle of having multiple nominated members for the purposes of exercising consideration of whether a Schedule 2 application should go to Planning Committee. As in the case of nominated officers, it will be necessary to ensure there are arrangements in place for other members to cover should the nominated member(s) not be available. It is suggested that the Vice-Chairs of the Eastern and Western Planning Committees adopt this role. It is proposed that the Chair and Vice-Chairs of the two respective committees assume these roles initially but the two planning committees be delegated authority to appoint and amend the nominated member(s) to perform this function as necessary.
40. BCP Council is responsible for putting into place its own arrangements for how the consideration of cases for referral to committee will operate in practice.
41. Where it is anticipated that there may be a significant number of cases which meet the criteria in regulation 5(3) or which may fall under regulation 6 and which could, therefore, be considered for referral to committee, a triage system has been set out in appendix 3 to help ensure that the nominated officer and nominated member of the committee are not overwhelmed and to avoid unnecessary delays in planning decision making.
42. Schedule 2 applications may therefore be placed before the nominated officer and nominated member in two ways. First, a councillor may submit a referral request

using the proposed form in Appendix 1. Secondly, an application may be identified by officers through the normal case management process where, in the professional judgement of the case officer, it appears capable of meeting one or more of the gateway criteria or may fall within the own-interest provisions.

43. For officer-identified cases, the initial judgement would be made by the planning case officer as part of their assessment of the application, informed by consultation responses, representations received, the nature and scale of the proposal, relevant policy considerations and any potential own-interest issue. Where the case officer considers that the application may appropriately be considered for committee referral, the matter should be escalated to the relevant Development Management Manager, or other senior planning officer appointed for that purpose, before it is placed before the nominated officer and nominated member.
44. The senior officer review is intended to provide a proportionate triage stage. It should confirm whether there is a reasonable basis for asking the nominated officer and nominated member to apply the statutory gateway test, rather than requiring the nominated persons to consider every Schedule 2 application. This preserves the statutory presumption in favour of officer delegation, avoids unnecessary delay, and focuses nominated person consideration on applications where there is a genuine issue of local significance, significant planning judgement or transparency arising from an own-interest application. Where routine officer case management considers whether a Schedule 2 application should be escalated but the matter is not placed before the nominated persons, a brief file note should be recorded on the planning file to show that the issue was considered and the reason why referral consideration was not pursued. Where the application is placed before the nominated persons, their deliberation will take place through a structured process and a formal decision record will be completed.
45. Some Members have expressed concern with the default position whereby all Schedule 2 planning applications will be determined under delegated powers, unless the application is called to Planning Committee by the nominated member and officer. A suggestion has been made that this position could be reversed and that all Schedule 2 planning applications would go to Planning Committee unless the nominated member and officer produce a decision record setting out reasons why it would not meet the qualifying criteria set out in the gateway test under Regulation 5(3).
46. Officers are concerned with this approach as it would significantly increase the burden and work levels on the nominated member and officer. It would result in some applications currently precluded from going to Planning Committee under the existing Scheme of Delegation potentially having to go to Planning Committee under the new Scheme of Delegation. Examples include Tree Work and Advertisement Consent applications. Such a change would seem to be contrary to the stated aim by Central Government to streamline the Planning Committee process and to adopt a presumption in favour of delegated decisions.
47. Based on applications submitted in the last year (1st August 25 – 1st August 26), 3,031 applications would have fallen within schedule 2, with 2,118 falling within schedule 1.



48. Of these, 3,031 schedule 2 applications, 2,339 were tree work applications, 396 were 'other minor' developments (such as replacement windows to flats), and 106 advertisements.

PS Code	Schedule 2
N01 - Major-Dwellings	25
N02 - Major - Offices/research and development	3
N03 - Major - General Industry/ storage/warehouse	3
N04 - Major - Retail, distribution and servicing	2
N06 - Major - Other major developments	27
N18 - Minor - Other minor developments	396
N20 - Change of Use	78
N22 - Advertisements	106
N23 - Listed building consents to alter/ extend	52
TWA - Tree Work Application	2339
Grand Total	3031

49. With a presumption in favour for items to go to committee, along with the absence of a set triage (as recommended in Appendix 3) on average the nominated member and officer would need to review 252 applications a month.
50. This review would require an 'officer decision record for each of the 252 (on average) applications a month (as shown in appendix 2 – requiring a clear reason why the application would meet the requirements) to show whether or not the item would or would not attend committee.
51. Even if a weekly meeting was set up to discuss potential applications, this would require the designated officer and member to consider 56 applications (assuming 4.5 weeks in a month) per week. This would place considerable burden on both officers and members.
52. The other implication is that if no decision records were issued then those 252 applications would need to be considered by the planning committee, placing greater time and administrative burden on both officers and members. For clarity, even if a gateway test was imposed to automatically exclude tree work applications,

the designated officer and member would still be required to consider and complete such officer decision record for 18 applications per week. This is still a considerable burden on officer and member's time.

53. Nominated officers and nominated members should make every effort to reach agreement on which cases should be referred to committee. However, the Government's statutory guidance at paragraph 15 states that 'where agreement is not possible, the case must be determined by officers in accordance with regulation 5(2) or regulation 6(3)'.
54. Where an application would otherwise be in Schedule 1 but is of a type set out in paragraph 36 above it should be considered to be in Schedule 2.

Gateway Test

55. In determining whether a referral is made, the presumption should be that decisions are delegated to Officers and only exceptionally be referred to committee. The Regulations make provision, in Regulation 5(3), for the matters that must be considered by the Nominated Member and Nominated Officer on whether to refer a proposal to determine a Schedule 2 Application to committee. They are known as the Gateway Test and comprise:
 - (a) where the application raises an economic, social or environmental significance to the local area; or
 - (b) where the application raises one or more significant planning matters having regard to the development plan and any other material considerations.
56. Applications for development which do not raise a significant planning matter can only be referred to the committee under criteria A if they raise a significant economic, social or environmental issue for the local area. It is for the nominated officer and member to assess whether the development proposal raises any such issue, providing an opportunity for local democratic oversight where necessary. What constitutes 'significant' will vary depending on the local area, but examples could include:
 - an application for outline planning permission for a large multi-phase residential development allocated in the local plan
 - an application for planning permission for change of use of a community shop in a rural area
 - an application for planning permission or listed building consent for changes to a notable listed building in a town centre
57. For the purpose of criteria B, the following circumstances are unlikely to raise a significant planning matter:
 - where the application for development broadly complies with a detailed site allocation and other relevant policies set out in a local or neighbourhood plan and national decision-making policies set out in the National Planning Policy Framework. Significant planning matters may arise if new material considerations are raised by the application
 - where a specific planning matter (e.g. highways or flood risk) was initially raised by a statutory consultee as a concern, but the development proposal has been

modified to make it acceptable in the view of the statutory consultee (unless the nominated officer has compelling reasons to consider otherwise)

Own Interest Applications

58. Applications which are made (whether or not jointly with any other person) by the authority or an officer or member of the authority or it is an application where, in the view of the nominated officer and nominated member, the authority or any of its members or officers has an interest, are own-interest applications dealt with under regulation 6.
59. Regulation 6 provides that the function of determining an own-interest application may be referred to a committee by agreement of the nominated member and nominated officer, at their discretion. Any such application not referred to a committee must be delegated to an officer.
60. Therefore, it is recognised that there may be cases where, in the interests of transparency and public accountability, it may be appropriate for some such applications whether they are in Schedule 1 or Schedule 2 to be referred to the planning committee. Where the nominated officer and nominated member agree, they can be referred to the committee without the need for consideration of the criteria set out in regulation 5(3).
61. Under regulation 10 of the Town and Country Planning General Regulations 1992, where a local planning authority is determining its own application for planning permission, it must not be determined by a committee, or officer responsible for the management of the building or land to which the application relates. In addition to this restriction, where a planning application is made by a nominated officer or nominated member of the authority or they have an interest in it, in the interests of propriety, they should not be involved in the decision on whether to refer it to committee or not.

Transparency, Reporting and Referral Requests

62. The nominated officer and nominated member process will not be a public committee meeting, but it should not be characterised as informal. It will be a structured decision-making process for applying the statutory gateway test, or the own-interest provisions, to applications placed before the nominated persons. For every referral considered by the nominated officer and nominated member, a decision record will be completed recording the application, the outcome of their consideration and the reasons for the decision. Where a decision record is generated on a particular planning application it will be published on the public register for reasons of openness and transparency. A draft decision record is appended to this report. Officers do not recommend that a formal nominated member and nominated officer decision record is required for every Schedule 2 application. However, where routine officer case management considers whether a Schedule 2 application should be escalated to the nominated persons, but the matter is not placed before them, a brief note of that consideration should be retained on the planning file.
63. During the initial six-month review period, officers will monitor the operation of the nominated officer and nominated member referral process, including any issues, concerns or patterns arising from referral requests, officer triage, decision records,

committee referrals and feedback from Members, officers or the public. This monitoring will inform the formal review by the Constitution Review Working Group after six months of operation. That review will consider whether the arrangements are operating consistently, fairly, transparently and in accordance with the Regulations, and whether any changes to guidance, process, reporting or constitutional wording are required.

64. Members may also consider whether they would like the production of a monthly or quarterly report, similar to the existing appeal decisions report circulated to the Planning Committee, listing all the decision records taken on Schedule 2 applications in the previous period.
65. All planning reports will include a section to highlight whether it is a Schedule 1 or Schedule 2 application and further, the reasons for either a delegated or committee decision.
66. Members have raised concern as to how they will be an advocate for residents in respect of Schedule 1 planning applications. Officers consider the most appropriate option is for Members to make written representations in the same way interested third parties currently do. If members seek clarity over aspects of schedule 1 applications, they may also contact senior officers (Senior planner and up) by phone or email. Members may also include suggested planning conditions or informatives in their representations where they consider these would address planning concerns, although the final decision on whether any condition is necessary, relevant to planning and the acceptability of the development, enforceable, precise and reasonable will remain a matter for the decision-maker.
67. The Council's Local Code of Best Practice Relating to Planning Matters remains relevant to these arrangements. In particular, the provisions on lobbying by councillors recognise that ward councillors may make representations on behalf of their ward, but that such representations should relate to the planning merits of the application and should be open and transparent. Councillors should avoid lobbying members of the Planning Committee or exerting undue pressure on planning officers in relation to any particular application. These principles will apply equally to communications with nominated officers and nominated members when they are considering whether a Schedule 2 application should be referred to committee. The use of a formal referral request process, written representations, file notes for officer case management considerations and decision records for every referral considered by the nominated persons is intended to ensure that councillor input is properly captured without creating an impression that nominated persons are being placed under improper pressure.
68. Members wanted more clarity on how to request that the nominated member and officer consider calling a Schedule 2 planning application to Planning Committee. Officers consider that the existing call-in form could be amended and re-badged to allow a member to submit a request for referral to the nominated member and nominated officer (see Appendix 1). The nominated member and nominated officer would then review the referral request by applying the gateway test criteria set out in Regulation 5(3) and, where applicable, the own-interest provisions in Regulation 6, before deciding whether the application should be referred to Planning Committee. A decision record would be generated where the request is considered by the nominated persons.

69. In addition, officers may identify Schedule 2 applications for consideration by the nominated persons. This is expected to arise through the case officer's normal assessment of the application, including consideration of the planning issues raised, consultation responses, representations, policy implications and any own-interest considerations. Where the case officer considers that the application may meet the gateway test, the matter should be reviewed by the relevant Development Management Manager or other appointed senior planning officer. Only where that senior officer considers that there is a reasonable basis for referral consideration would the application be placed before the nominated officer and nominated member. This officer triage route will be set out in operational guidance rather than in detailed constitutional wording.

BCP Publicity for the National Scheme of Delegation

70. In addition to Member engagement, the Council will ensure that the public is informed of the changes affecting planning decision-making. This will be achieved through updates to the Council's website, providing clear and accessible information on:
- The changes being introduced through the national scheme of delegation;
 - Any consequential amendments to the Council's Constitution and local Scheme of Delegation;
 - The respective roles of Planning Committee and Planning Officers in determining planning applications; and
 - How members of the public can engage with the planning process under the revised arrangements.
71. This approach will help ensure transparency, maintain public confidence in the planning system, and support both Members and stakeholders in understanding the changes as they are implemented.

Conclusion

72. The government's aim behind the national scheme of delegation is to ensure greater clarity and consistency about the role of planning committees in planning decision making.
73. The government considers that Planning Committees should focus on the key proposals that matter to an area and that more minor and technical decisions should be made by planning officers.
74. The Council must officially amend its Constitution to match the new rules.
75. If the Council fails to comply by 31 October 2026, there is a risk that planning committee decisions will be overturned via judicial review. It will not be possible for the two planning committees to consider planning applications referred under the current scheme of delegation post 31 October 2026.
76. The Council has very limited scope to amend the new national scheme which is being imposed.

Summary of financial implications

77. There are no anticipated financial implications arising from the implementation of the recommendations as set out in this report. However, if members were minded to reverse the presumption of Schedule 2 applications being delegated to officers which would require a formal decision record being captured for the 3,000+ Schedule 2 Applications, this would likely result in significant burden on the nominated officers and members and potentially upon the committee meetings, legal and democratic services support.

Summary of legal implications

78. The Planning and Infrastructure Act 2025 and the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 introduce a statutory national scheme for the discharge of specified local planning authority functions. The Council is therefore required to ensure that its Constitution, including the scheme of delegation and planning committee arrangements, is consistent with the new legal framework when the Regulations come into force on 31 October 2026.
79. Failure to amend the Constitution, or continuing to determine applications through referral routes which are no longer permitted, would create a risk that decisions are taken without lawful authority and may be susceptible to judicial review. The proposed constitutional amendments, nominated officer and nominated member arrangements, decision-recording process and supporting guidance are intended to mitigate that risk by ensuring that planning applications are determined through the correct statutory route and that any committee referral is properly justified and recorded.

Summary of human resources implications

80. There are no anticipated direct human resources implications arising from the implementation of the recommendations as set out in this report. The proposed amendments are intended to align the Council's constitutional arrangements with the national scheme of delegation and are not expected to require changes to staffing structures, roles, employment contracts, payroll, pensions or TUPE arrangements. However, if Members were minded to adopt a significantly different approach, including reversing the presumption that Schedule 2 applications are determined under delegated powers or requiring a formal decision record for all such applications, this could create additional workload and resource pressures for Planning, Legal and Democratic Services officers, as well as for nominated members. Any material increase in workload would need to be kept under review and considered through normal service planning and resource management arrangements.

Summary of sustainability impact

81. There are no anticipated direct sustainability impacts arising from the implementation of the recommendations as set out in this report. The proposed amendments relate to the Council's constitutional arrangements for the discharge of planning functions and do not alter planning policy, environmental assessment requirements, climate considerations, or the substantive assessment of planning

applications. Sustainability, climate and environmental matters will continue to be considered, where relevant, as part of the determination of individual planning applications in accordance with the Development Plan, national planning policy and any other material planning considerations.

Summary of public health implications

82. There are no anticipated direct public health implications arising from the implementation of the recommendations as set out in this report. The proposed amendments relate to the Council's constitutional arrangements for the discharge of planning functions and do not alter planning policy, public health assessment requirements, or the substantive consideration of health and wellbeing matters in individual planning applications. Public health considerations will continue to be taken into account where relevant as part of the assessment and determination of planning applications in accordance with the Development Plan, national planning policy and any other material planning considerations.

Summary of equality implications

83. There are no anticipated direct equality implications arising from the implementation of the recommendations as set out in this report. The proposed amendments relate to the Council's constitutional arrangements for the discharge of planning functions and do not alter planning policy, consultation requirements, public speaking arrangements, or the substantive assessment of equality impacts in individual planning applications. The Council will continue to comply with its Public Sector Equality Duty when exercising its planning functions and equality considerations will continue to be taken into account where relevant in the determination of individual applications.

Summary of risk assessment

84. The principal risk arising from this report is the risk of non-compliance with the national scheme of delegation if the Council's Constitution is not amended before the Regulations come into force on 31 October 2026. Failure to align the Council's arrangements with the statutory framework could result in planning committee decisions being taken without lawful authority, with an associated risk of judicial review and reputational damage.
85. There is also a transitional risk in relation to applications that may have been referred to committee under the existing Scheme of Delegation but cannot lawfully be determined by committee after 31 October 2026 unless they meet the requirements of the new scheme.
86. There is a further risk that Members may attempt to, or be perceived as attempting to, place undue pressure on nominated officers or nominated members when seeking referral of Schedule 2 applications to committee. This could undermine confidence in the fairness, transparency and objectivity of the referral process. This risk is mitigated by the Local Code of Best Practice Relating to Planning Matters, the requirement for councillor representations to relate to planning merits, the proposed written referral request process, file notes where officer case management considers but does not pursue escalation, decision records for every referral considered by the nominated persons, and guidance reminding Members that communications with

nominated persons must be open, transparent and not amount to lobbying or undue pressure. These risks are further mitigated by the proposed constitutional amendments, the use of nominated officer and nominated member arrangements, clear referral and decision-recording processes, and public and Member communications explaining the revised arrangements.

87. If Members were minded to adopt a significantly different approach to Schedule 2 applications, this could create additional operational and resource pressures and increase the risk of delay in decision-making.

Background papers

Published works

Appendices

Appendix 1 - Councillor Request for Referral to Planning Committee form

Appendix 2 - Nominated Member and Nominated Officer Decision Record

Appendix 3 – Proposed Changes to Parts 2, 3, 4, and 6 of the Constitution with Track Changes

Appendix 4 – Clean version of Part 3 of the Constitution for ease of reading

Councillor Request for Referral to Planning Committee

Completion note: Please download this template and save it locally before completing and submitting the form.

Application details	
BCP area	Bournemouth / Christchurch / Poole <i>(delete as appropriate)</i>
Application number	
Site address	
Application ward	
Referral request	
Gateway test A What issue(s) of economic, social or environmental significance to the local area does the application raise which would justify referral to committee?	
Gateway test B What significant planning matter(s) does the application raise, having regard to the Development Plan and any other material planning considerations?	
Councillor details	
Councillor name	
Councillor's ward	
Date sent to nominated member and nominated officer	

Send completed forms to [INSERT EMAIL ADDRESS]

Guidance notes follow on the next page.

Guidance Notes

This form must be used when seeking a referral to planning committee by the nominated member and officer. In order to submit a legitimate referral request this form must be completed and received by the nominated member and officer within 28 days of the application being registered and going live on the Councils website.

The following guidance has also been prepared to assist Councillors when completing the form:

- Please complete each section of the form in full otherwise the request will not be considered valid.
- As part of filling in the form, you must:
 - (a) specify the issues of economic, social or environmental significance to the local area raised by the proposals or;
 - (b) Identify the significant planning matter(s) raised by the proposals having regard to the development plan and any other material considerations. impact or wider public interest. You may wish to refer to the guidance on the [Planning Portal](#) and the government's own [National Planning Practice Guidance](#) to assist you.

If you have any queries please contact Planning Services
planning@bcpcouncil.gov.uk



Nominated Member and Nominated Officer Decision Record

This form records the decision of the nominated member and nominated officer on whether a planning application should be referred to Planning Committee under the national scheme of delegation.

Application details	
Planning application address	
Planning application reference	
Description of development	
Decision-makers	
Nominated member	
Nominated officer	
Decision	
Decision outcome	Select one: ☐ Refer the application to Planning Committee ☐ Application to remain delegated to officers
Reason for decision Please explain why the gateway test is, or is not, engaged.	
Gateway test relied upon, if applicable	☐ The application raises one or more issues of economic, social or environmental significance to the local area.

	☐ The application raises one or more significant planning matters having regard to the Development Plan and any other material planning considerations. ☐ Own-interest application under Regulation 6.
Record and publication	
Suggested wording for committee referral	<i>This is a Schedule 2 application. By virtue of Regulation 5, it is being reported to Planning Committee because the nominated member and nominated officer agree that referral is justified for the reasons set out in this decision record.</i>
Suggested wording for delegated decision	<i>This is a Schedule 2 application. By virtue of Regulation 5, it is being dealt with under delegated powers because the nominated member and nominated officer do not agree that the gateway test is engaged for the reasons set out in this decision record.</i>
Confirmation	
Date of decision	
Nominated member confirmation	
Nominated officer confirmation	

Note: A copy of this decision record should be retained on MasterGov and published on the public register in accordance with the Council's agreed arrangements.