

Report to Council

Subject: Planning Committee Reform

Date: 30th September 2026

Author: Assistant Director - Development

Purpose For Council to approve the amended Planning Committee Rules and Scheme of Delegation within the Constitution.

Recommendation(s)

THAT:

That Council approve the proposed amendments to the Planning Committee Rules within Section 10 the Constitution and the Scheme of Delegation with Section 19b of the Constitution.

1 Background

- 1.1 Government is introducing a National Scheme of Delegation through the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 ("the Regulations"). Sections 319ZZC–319ZZF have been inserted into the Town and Country Planning Act 1990 (as amended) to empower the Secretary of State to define which functions are delegated to officers and which are reserved for planning committees or sub-committee.
- 1.2 Its purpose is to provide greater clarity and consistency about which planning functions are decided by officers and which require committee oversight, reducing variation and uncertainty across Local Planning Authorities
- 1.3 Local Planning Authorities are expected to have the new arrangements for decision-making in place by 31st October 2026. Decisions taken on or after that date must be taken in accordance with the Regulations and if not,

could be considered by the Courts to have been unlawful.

- 1.4 The reforms will include a restriction on the number of elected members on Planning Committees to not exceed 13 and mandatory training will be introduced for members of Planning Committees.
- 1.5 The introduction of a National Scheme of Delegation which will group planning applications into 2 schedules;
- 1.6 Schedule 1 of the Regulations sets out all the functions which must be delegated to officers for a decision (unless it is an own-interest application). These include a number of categories of applications for planning permission for:
 - householder development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)
 - minor commercial development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)
 - minor residential development which is defined in the Regulations as:
 - development that includes only dwellings and development for the purposes incidental to the enjoyment of dwellings, comprises at least one but not more than nine dwellings, and is to be carried out on a site having an area smaller than 0.5 hectares
 - development of a building containing flats, or development within the curtilage of such a building, for any purpose incidental to the enjoyment of the flats or any of them but excludes development in respect of a building containing flats, or development within the curtilage of such a building, that involves either or both of a change of use or change to the number of flats
 - an application for any consent, agreement or approval required by or under a planning permission, development order or local development order for minor residential applications.

Along with a range of other consents which include:

- to develop land without compliance with conditions previously attached) in respect of which the previous planning permission was a Schedule 1 planning permission (applications under section 73(1) of

the Town and Country Planning Act 1990)

- reserved matters approval in respect of an outline planning permission other than a large outline phase permission (i.e. one which grants permission for development involving the provision of at least 500 dwellings or a building or buildings where the floorspace to be created by the development is 50,000 square metres or more) (applications under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- discharge of conditions (applications under Article 27(1) of Town and Country Planning (Development Management Procedure) (England) Order 2015)
- prior approval for permitted development rights (applications under Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015)
- permission in principle (as referred to in section 58A of the Town and Country Planning Act 1990)
- where a local planning authority considers a planning obligation is connected to a Schedule 1 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)
- where local planning authority considers a planning obligation is connected to a Schedule 1 application, modification or discharge of a planning obligation (applications under section 106A(3) of the Town and Country Planning Act 1990)
- non-material changes to planning permission or permission in principle (applications under section 96A(4) of the Town and Country Planning Act 1990)
- certificates of lawfulness of existing use or development (under section 191(1) of the Town and Country Planning Act 1990)
- certificates of lawfulness of proposed use or development (under section 192(2) of the Town and Country Planning Act 1990)
- certificates of lawfulness for proposed works to listed buildings (under section 26H of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- biodiversity gain plan (duty to approve under paragraph 14 of Schedule 7A to the Town and Country Planning Act 1990)
- certificates of appropriate alternative development (applications under section 17 of the Land Compensation Act 1961)

Applications which would otherwise fall under Schedule 1, will fall within Schedule 2 where:

- a local authority considers that the 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
- the application is made under section 73A of the Town and Country Planning Act 1990

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

- applications for planning permission which are not householder, minor commercial or minor residential applications
- applications for planning permission which would otherwise fall into Schedule 1 but are connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent
- applications to develop land without compliance with conditions previously attached in respect of which the previous planning permission was a Schedule 2 planning permission (under section 73(1) of the Town and Country Planning Act 1990)
- applications for development which has already been carried out (under section 73A(1) of the Town and Country Planning Act 1990)
- where it is related to a large outline planning permission, applications for reserved matters approvals (under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- where a local planning authority considers a planning obligation is connected to a Schedule 2 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)
- where a local planning authority considers a planning obligation is connected to a Schedule 2 application, application for modification or discharge of a planning obligation (under section 106A(3) of the Town and Country Planning Act 1990)
- applications for listed building consent (under section 10 of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- applications for the variation or discharge of conditions of listed building consent (under section 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- applications for advertisement consent (under regulation 9 of the Town

and Country Planning (Control of Advertisements) (England) Regulations 2007)

- applications for consent under tree preservation orders (under regulation 16 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012)

1.8 The Government guidance states that the overriding presumption is that the applications listed in Schedule 2 will be delegated to officers. An application can be referred to a committee or sub-committee only where at least one of the criteria in Regulation 5 (“the Gateway Test”) is met or it is an own-interest (Regulation 6) application and the nominated officer and nominated member of the planning committee agree to the referral.

1.9 The Gateway Test is considered by the Nominated Member and Nominated Officer. At a minimum, at least one of the following statutory criteria must be met for a referral to committee to be considered to meet that threshold:

A. where the application raises an economic, social or environmental issue of significance to the local area.

B. where the application raises a significant planning matter having regard to the development plan and any other material considerations.

1.10 Applications for development which do not raise a significant planning matter can only be referred to the committee under criterion 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.

1.11 For the purpose of criterion 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).

Working Group

1.12 At its meeting on 15 July 2026, Planning Committee approved the establishment of a politically balanced Working Group to:

- (a) review and update the Planning Committee Protocol;
- (b) consider the amendments required to Section 10 and Section 19b of the Constitution; and
- (c) consider those matters left to local determination under the Regulations.

1.13 The Working Group met on 6 August 2026 and was attended by Members together with Officers from Planning, Legal and Democratic Services. Extensive discussion took place and Members provided valuable comments and feedback on the proposed amendments.

1.14 Officers subsequently reviewed all comments received and prepared revised drafts of the Planning Committee Protocol (which was approved by Committee on 9th September), Section 10 and Section 19b. Those revised drafts were circulated to the Working Group Members for further review and comment by 5pm on 17 August 2026.

1.15 Final comments were considered by Officers and the documents were subsequently finalised. The documents appended to this report represent the final Officer recommendation.

1.16 Whilst broad agreement was reached on many matters, no clear consensus emerged on all issues. In those circumstances, Officers were required to exercise professional judgement in formulating the final recommendations contained within the appended documents.

1.17 The final proposals were taken to Planning Committee on 9th September 2026 where following a recorded vote the proposals detailed below were carried.

2 Proposal

- 2.1 That Planning Committee approves the proposed amendments to the Planning Committee Rules within the Constitution and the Scheme of Delegation for referral to Council. The amendments are required to ensure consistency with the legislative changes set out within the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.
- 2.2 Whilst a significant proportion of the amendments arise directly from the requirements of the Regulations and statutory guidance, a number of matters remain within the Council's discretion. The proposed documents therefore reflect officer recommendations on those discretionary matters following consideration of the Working Group discussions, relevant guidance and the need to maintain a clear and legally robust decision-making framework.
- 2.3 The key changes proposed can be summarised as follows;

Section 10 of the Constitution – Planning Committee (Appendix 1)

2.4 Committee Membership

The Regulations state that a planning committee shall not comprise more than 13 members. The Council's Committee currently has 16 members comprising of 9 Labour members (56.25%), 4 Conservative (25%), 1 Liberal Democrat (6.25%), and 1 from each respective Independent party (6.25% each). As a whole, the Council comprises 58.53% Labour members, 21.9% Conservative, 9.76% Liberal Democrat and 4.87% in respect of each of the 2 Independent Members or Independent Groupings.

- 2.5 It is recommended that the Committee comprises 12 Members, which is considered to be the most politically balanced option having considered other numbers. It is further recommended that a Committee of 12 Members could comprise 7 Labour members (58.33%) 2 Conservative members (16.66%), 1 Liberal Democrat and 1 member from each of the Independent Members or Independent Groupings (8.33% each).
- 2.6 Reasons for Recommendation

The Local Government and Housing Act 1989 established the principle of the proportional allocation of committee and sub-committee seats. The

Council is also required under the Act to keep under review the representation of the different political groups on bodies appointed by the Council. In determining the membership of committees, account must be taken of the requirements of the Local Government (Committees and Political Groups) Regulations 1990 and 1991 made under sections 15 and 16 of the Local Government and Housing Act 1989. These regulations require that seats on committees and sub-committees are allocated to the political groups in a way which reflects the overall political balance of the Council. A political group is defined as a group consisting of two or more members, which means both independent groupings are considered separately when allocating membership at Gedling Borough Council.

2.7 The Act sets out four principles which must be followed so far as reasonably practicable. They are:

(a) Preventing domination by a single group: All the seats on a committee should not be allocated to the same political group.

(b) Ensuring a majority group enjoys a majority on all committees: If one political group has a majority in the full Council, that political group should have a majority on each committee.

(c) Aggregating all committee places and allocating fair shares: Subject to the above two principles, the total number of seats on all the committees of the Authority allocated to each political group should be in the same proportion as that political group's seats on the full Council.

(d) Ensuring as far as practicable fairness on each committee: Subject to the above three principles, the number of seats on each committee of the Authority allocated to each political group should be in the same proportion as that political group's seats on the full Council.

2.8 Method to calculations

The principles in paragraph 2.7 are applied as follows;

- Calculate the total number of seats with votes on all the committees subject to Political Balance.
- Calculate the proportion that each political group forms of the total membership of the Authority. Reserve an appropriate number of seats

for ungrouped members – this is currently not applicable at Gedling Borough Council

- Apply those proportions to the total number of ordinary seats to give the aggregate entitlement of each group; the requirement to apply the proportions “so far as reasonably practicable” are met by rounding down fractional entitlements of less than half, and rounding up entitlements of a half or more; if this results in a greater aggregate than the number of seats available, the fractional entitlement(s) closest to a half should be rounded in the other direction until entitlements balance the available seats.
- Apply the proportions to the number of councillors on each committee to give provisional entitlement to seats on that committee.
- Finally, adjust the seats on each committee so that the total allocated to each group is as near as possible to their aggregate entitlement, whilst preserving the results reached at steps above (thus applying principle (c) in the above paragraph). Where calculations identify additional seats (not allocated) the largest group followed by the next largest group etc., will have their choice of which committee places they wish to take their allocation from in the un-allocated/independent/vacant columns.
- Unallocated spaces will be available to any independent members (who are not members of a group) – this is currently not applicable at Gedling Borough Council

2.9 The top row table below sets out each political group along with the percentage of the Council that group holds. The rows below that show the political balance of the Planning Committee with membership between 9 and 13 Councillors. Having regard to the above, it is considered that a Committee membership of 12 Councillors would best reflect the political balance of the Council.

Balance	Lab 58.53% (Council)	%	Con 21.95% (Council)	%	LD 9.76% (Council)	%	Ind 4.87% (Council)	%	Ind 4.87% (Council)	%
13	7	53.8	3	23.07	1	7.69	1	7.69	1	7.69
12	7	58.33	2	16.66	1	8.33	1	8.33	1	8.33
11	6	54.54	2	18.18	1	9.09	1	9.09	1	9.09
10	5	50	2	20	1	10	1	10	1	9.09
9	5	55.55	2	22.2	2	22.22	0	0	0	0

2.10 Nominated Officer / Nominated Member Decisions

The Regulations set out that a relevant local planning authority may nominate;

- (a) a member of the authority to act as the nominated member for the purposes of regulations 5 and 6 (applications that may be determined by a committee or an officer and own interest applications);
- (b) an officer of the authority to act as the nominated officer for the purposes of regulations 5 and 6.

2.11 It is proposed that the Chair of Planning Committee (or, in the Chair's absence, the Vice-Chair) as the Nominated Member. This approach reflects the expectations set out within the Regulations and associated statutory guidance and, having reviewed the guidance carefully, it is considered that this is the most appropriate and robust approach for the Council to adopt.

2.12 The Nominated Officer will be the Director of Place, or equivalent Officer responsible for the planning service. This aligns with the statutory guidance which states that the nominated officer should be the Chief Planning Officer or equivalent officer who has extensive professional planning experience.

2.13 Reasons for Recommendation

The Regulations and statutory guidance place responsibility for referral decisions solely on the Nominated Officer and Nominated Member. Whilst the guidance recognises that local authorities may establish local arrangements and triage systems, paragraphs 12 – 15 of the guidance is that these provisions are directed towards how local authorities organise and manage applications which may require Gateway Test consideration, rather than creating any additional member-led stage prior to the statutory decision being made.

2.14 In particular, paragraph 13 of the guidance states that local authorities may decide which Schedule 2 applications should be considered for referral in the first place and paragraph 14 refers to a triage system as a mechanism for ensuring that the Nominated Officer and Nominated Member are not overwhelmed by large numbers of applications. Paragraph 15 then returns to the expectation that the referral decision itself will be made by the

Nominated Officer and Nominated Member.

- 2.15 To ensure transparency within the referral process, it is proposed that a written record of every application considered by the Nominated Member and Nominated Officer for referral to Planning Committee shall be maintained and reported within the next available Planning Committee Agenda.

2.16 Section 19B – Scheme of Delegation (Appendix 2)

The Planning delegations have been reviewed to reflect the requirements of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.

- 2.17 The revised draft;
- identifies those application types that must be determined by officers (P1);
 - identifies those application types which may be referred to Planning Committee through the Nominated Officer/Nominated Member process (P19);
 - retains officer decision-making for advertisement consent applications and Tree Preservation Order matters, reflecting the Working Group discussion (P1 and P10); and
 - retains the Council's existing operational, administrative and enforcement powers.

- 2.18 Under the existing Planning Delegation P25, applications proposing 10 or more residential dwellings or 5,000m² or more of new commercial floorspace are reserved to Planning Committee. The revised scheme of delegation proposes applications involving:

- 10 or more dwellings;
- 1,000m² or more commercial floorspace; or
- residential sites of 0.5 hectares or more where dwelling numbers are not yet known;

should be capable of consideration under the Gateway Test. This will align with the Council's approach with major development thresholds and focus Member involvement on significant development proposals.

- 2.19 The Regulations include applications or advertisement consent and tree preservation order consent within Schedule 2, allowing them to be referred to Planning Committee subject to the Gateway Test. The revised scheme of delegation proposes that these applications remain delegated to Officers as they are primarily technical matters and are unlikely to justify Committee consideration.

3 Alternative Options

- 3.1 Local Planning Authorities are required to have the new arrangements for decision-making in place by 31 October 2026. Any decisions not taken in accordance with the Regulations may be considered not to be legally sound.

4 Financial Implications

- 4.1 None, the changes required to the Constitution and Scheme of Delegation have been met from existing budgets.

5 Legal Implications

- 5.1 The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 will come into force on 31 October 2026. Failure to determine applications in accordance with the Regulations may render the resulting decision unlawful and susceptible to challenge through the courts.

6 Local Government Reorganisation Implications

- 6.1 The legislation will apply to every Local Planning Authority in England, therefore a more consistent approach to the determination of planning applications will be being taken by authorities ahead of Local Government Reorganisation. Any newly formed unitary authorities will be required to adopt their own Constitutions which will set out how planning decisions are taken.

7 Equalities Implications

- 7.1 None, the legislation will be applied across Local Planning Authorities in England. Any implications have been considered by the government.

8 Carbon Reduction/Environmental Sustainability Implications

- 8.1 None, any carbon reduction and sustainability implications will be considered in the determination of individual planning applications by both the Local Planning Authority and Secretary of State should they decide to call in an application.

9 Appendices

- 9.1 Appendix 1 - Section 10 of the Constitution – Planning Committee
- 9.2 Appendix 2 - Section 19B – Scheme of Delegation

10 Background Papers

- 10.1 The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 - <https://www.legislation.gov.uk/ukdsi/2026/9780348283709/contents>
- 10.2 Planning Committees and the National Scheme of Delegation 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](#)

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer