



**REPORT of
DIRECTOR OF LEGAL AND GOVERNANCE**

to
COUNCIL
22 OCTOBER 2026

PLANNING COMMITTEE CONSTITUTIONAL CHANGES

1. PURPOSE OF THE REPORT

- 1.1 To review the constitutions in light of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. ("Regulations").

2. RECOMMENDATIONS

- (i) That the Scheme of Delegation is amended as set out in **APPENDIX A** to reflect the National Scheme of Delegation set out in the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026, and will come into force from 31 October 2026;
- (ii) That under Section 3 of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 the nominated Member is the Chairperson of the Planning Committee, and the nominated officer is the Director of Place Planning and Growth. In the absence of the Director of Place, Planning and Growth the Head of Development Management is the nominated officer and in the absence of the Chairperson of the Planning Committee the Vice-Chairperson is the nominated Member;
- (iii) That the revised Public Speaking Protocol at **APPENDIX B** is adopted from 31 October 2026;
- (iv) That the Terms of Reference for Area and District Planning Committees are removed from the Constitution and new terms for a single Planning Committee are adopted as at **APPENDIX C** which will come into force from 31 October 2026;
- (v) That the Maldon District Council Planning Scheme of Management as set out in **APPENDIX D** be approved and will come into force from 31 October 2026.
- (vi) That the Director of Place Planning and Growth has delegated authority to make operational changes to the Planning Scheme of Management;
- (vii) That the administrative changes to Part 5 of the Constitution the Code of Good Practice and Guidance on the conduct of Planning Applications as set out in **APPENDIX E** are approved and will come into force from 31 October 2026;
- (viii) That the Director of Place Planning and Growth has delegated authority in consultation with the Performance, Governance and Audit Working Group to

review Part 5 of the Constitution the Code of Good Practice and Guidance on the conduct of Planning Applications following the review of services.

- (ix) That the Rules of Procedure in Part 4 of the Constitution are amended to allow for the following changes:
 - For electronic voting to be a valid means of voting in all Committee meetings;
 - For an Officer's recommendation in Planning Meeting to be recognised as the substantive motion and for no proposer or seconder to be required.
- (x) That the Director of Legal and Governance has delegated authority to make any further required administrative changes to the Constitution in consultation with the Chairperson of the Planning Committee to reflect these legislative changes.

3. SUMMARY OF KEY ISSUES

- 3.1 The Performance Governance and Audit Committee considered the proposed changes to Planning Committees in November 2025. At this time Members agreed not to proceed with changes to the Constitution at that time.
- 3.2 The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 were made on 15 July 2026 and come into force on 31 October 2026.
- 3.3 These regulations bring in a number of legal changes to the decision-making process for planning applications which the Council must adopt to ensure it is acting legally.
- 3.4 The Regulations set out a National Scheme of Delegation, restrict the size of the planning committee and sets out the legal criteria for decision being delegated or referred to Committee for a decision.
- 3.5 This report sets out the changes required to the constitution to comply with the Regulations and allow the Council to act lawfully as the Planning Authority, taking into account the new National Scheme of Delegation and legally required changes to the Committee size. A separate report has been produced to deal with the change to the size and membership of the District Planning Committee.
- 3.6 **National Scheme of Delegation**
 - 3.6.1 The Regulations prescribe two types of delegated decision. The Regulations clearly set out that the presumption is that all decisions will be made by Officers.
 - 3.6.2 The Regulations set out a list of application types which must always be determined by Officers (specified at Schedule 1 of the Regulations). Any application which is listed in Schedule 1 cannot lawfully be placed before the Planning Committee and will be delegated to Officers.

- 3.6.3 A second list of application types (specified at Schedule 2 of the Regulations) should also always be determined by Officers unless the proposal raises one or more of the following issues:
- where the application raises an economic, social or environmental issue of significance to the local area
 - where the application raises a significant planning matters having regard to the development plan and any other material considerations
- 3.6.4 The decision as to whether an application raises one of the issues above is known as the “Gateway Test”. The consideration of this Gateway Test will be documented and published, and it will determine which applications are heard by the Planning Committee.
- 3.6.5 For those application types falling within Schedule 2 of the Regulations, the decision whether to call the matter to Committee rests with a nominated Officer in consultation with a nominated Member. It is proposed that the nominated Officer is the Director of Place, Planning and Growth and the nominated Member is the Chairperson of the Planning Committee.
- 3.6.6 For clarity it is proposed that in the circumstances that the Director of Place, Planning and Growth is unavailable the nominated officer is the Head of Development Management and in the absence of the Chairperson of the Planning Committee the Vice-Chairperson is the nominated Member.
- 3.6.7 The Scheme of Delegation has been amended to take into account the legal changes required setting out the Schedule 1 and Schedule 2 delegations and can be viewed at **APPENDIX A**.

3.7 Council / Member / Officer Applications

- 3.7.1 The Regulations allow for applications made by the Council, Members or Officers to be heard by Committee.
- 3.7.2 The Council's constitution currently requires all applications to be placed before Committee and no changes to this are proposed.

3.8 Public Speaking

- 3.8.1 The reduction in the size of the Planning Committee will result in some District Councillors potentially being unable to speak in relation to a planning application within their ward.
- 3.8.2 In order to address this the Public Speaking Protocol has been amended to allow District Councillors who are not members of the Planning Committee to speak in relation to applications made within their ward. It also provides the Chairperson with discretion to allow other Members to speak on an application. This discretion allows Ward Members to speak where an application site is close to a ward boundary.
- 3.8.3 The Public Speaking Protocol currently allows Objectors, Parish / Town Councils and Applicants to all speak for up to two minutes on a planning application.
- 3.8.4 Members have previously raised concerns regarding the length of time individuals are able to speak at a planning meeting. The amended Protocol increases the time for speakers to three minutes.

3.8.5 These changes have been made to the Public Speaking Protocol and can be seen at **APPENDIX B**.

3.9 Terms of Reference

3.9.1 The Terms of Reference in relation to the Planning Committee have been rewritten to take into account the change in regulations, incorporating the National Scheme of Delegation and the removal of Area Planning Committees see at **APPENDIX C**.

3.9.2 The Regulations prevent Member call in and so this has been removed from the Terms of Reference.

3.10 Maldon District Council Planning Scheme of Management

3.10.1 Regulation 3 of the Regulations requires the Council to produce a document which sets out the relevant Member and officer roles, substitutes and officers with delegated powers.

3.10.2 This document sets out the nominated member and officer as set out in section 3.6 of this report and the sub-delegations that the Director of Place, Planning and Growth currently anticipates being necessary.

3.10.3 It is proposed that the Director of Place, Planning and Growth has the delegated authority to make operational changes to this document due to the business needs to the planning department without a further report being required.

3.10.4 The Maldon District Council Planning Scheme of Management attached at **APPENDIX D** meets this legal requirement.

3.11 Code of Good Practice

3.11.1 The Code of Good Practice and Guidance on the conduct of Planning Applications is currently set out in part 5 of the Constitution. This sets out the process of planning applications.

3.11.2 Following the changes in the Regulations changes some minor changes are required to this document which can be seen at **APPENDIX E**.

3.11.3 Following the recent review of the Development Management team the report recommended a number of changes to the processes within the planning department. These changes will require a further update to this document.

3.11.4 It is therefore proposed that delegated authority is provided to the Director of Place, Planning and Growth to make changes to this document in consultation with the Performance, Governance and Audit Working group. This will allow Member oversight of the proposed changes while allowing the changes to be implemented in a timely manner.

3.12 Rules of Procedure

- 3.12.1 Following the installation of new recording and streaming equipment within the Council Chamber the system allows for voting to be recorded electronically. While it is for the Chairperson of each meeting to decide whether to use this system the Constitution currently requires a show of hands for voting purposes. It is therefore proposed to amend the Constitution to allow for electronic voting should this be required.
- 3.12.2 Following the Peer review of the Development Management Service a recommendation was to improve the clarity of the decision making of the Committee. In order that it is clear to the public and to Members the decision in relation to the Officer recommendation it is suggested that the officer recommendation is automatically considered as the substantive motion.
- 3.12.3 This allows for Members to vote on the officer recommendation before any discussion regarding alternative proposals are debated / placed before Committee. This prevents the debate moving directly into grounds for refusal / acceptance before such time as the Officer recommendation has been considered. If Members of the Committee do not wish to support the Officer recommendation, a clear vote to refuse the Officer recommendation must be made before grounds for refusal are considered.
- 3.12.4 Given the large number of changes, it is proposed that that the Director of Legal and Governance has the delegated authority to make any further administrative changes to the Constitution to ensure that the Council's constitution reflects the requirements of the Regulations and allows the Council to act lawfully from 31 October 2026.

4. CONCLUSION

- 4.1 The changes set out in this report are a legal requirement to comply with the Regulations.
- 4.2 In order to act lawfully the Council must change the constitution to reflect the legal requirements of the Regulations.

5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2025 - 2028

- 5.1 Elements of all areas of Corporate Plan delivery are covered in the activities of the Committees.

6. IMPLICATIONS

- (i) **Impact on Customers** – This change in legislation is anticipated that less decisions will be placed before Committee. This will make minor applications a quicker process. Applications which have a significance to the local area will still be heard by Committee. Residents will be able to make written representations as currently is the case in all applications.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk (including Fraud implications)** – None.

- (iv) **Impact on Resources (financial)** – None.
- (v) **Impact on Resources (human)** – This is thought to be minimal as while the introduction of a national scheme of delegation is intended to reduce the number of applications going to committee and the reduction to one Committee may reduce staff resources on supporting these meetings the introduction of the “gateway test” will require additional work. Overall, this is likely to be resource neutral across the organisation.
- (vi) **Impact on Devolution / Local Government Reorganisation (LGR)** – None.

Background Papers:

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

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