

Maldon District Council

Planning Scheme of Management

1. INTRODUCTION

- 1.1 Reference to Regulations in this document is a reference to the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.
- 1.2 This Planning Scheme of Management allows the Director of Place, Planning and Growth to discharge their responsibilities under the Planning Scheme of Delegation in the Constitution, and for the purposes of Regulation 3 to produce a document that clearly sets out:
- A. the member of the authority who acts as the Nominated Member;
 - B. one or more Members of the authority who act as a substitute for the Nominated Member;
 - C. the officer of the authority who acts as the Nominated Officer;
 - D. one or more officers of the authority who act as a substitute for the Nominated Officer.
- 1.3 The document must also set out:
- the officer(s) of the authority who have delegated powers to determine a Schedule 1 planning application (Regulation 4);
 - the officer(s) of the authority who have delegated powers to determine a Schedule 2 planning application (Regulation 5);
 - the officer(s) of the authority who have delegated powers to determine an Own-Interest Application (Regulation 6); and
 - the officer(s) of the authority who have delegated powers under the Constitution to determine any other planning matter.
- 1.4 This document sets out the rules within the Regulations and provides additional advice on the use of delegated powers; both those powers derived from the Regulations and the powers delegated to the Director of Place, Planning and Growth in the Council's Constitution.

2. NOMINATED MEMBERS

- 2.1 Pursuant to Regulation 3(1)(a) and 3(2)(a):
- The Nominated Member for the purposes of Regulations 5 and 6 is the Chairperson of the Planning Committee.

Substitutes

- 2.2 Pursuant to Regulation 3(2)(b), where the Nominated Member is unavailable for whatever reason, the substitute Nominated Member is the Vice-Chairperson of the Planning Committee.

3. NOMINATED OFFICERS

3.1 Pursuant to Regulation 3(1)(b) and 3(2)(a):

- The Nominated Officer for the purposes of Regulations 5 and 6 is the Director of Place, Planning and Growth.

Substitutes

3.2 Pursuant to Regulation 3(2)(b), where the Nominated Officer is unavailable for whatever reason, the substitute Nominated Officer is the Head of Development Management.

4. SUB-DELEGATION

4.1 The Regulations and the Constitution provide that different officers can be nominated for different purposes with respect to the determination of planning applications and other planning matters.

Schedule 1 And Schedule 2 Triaged Applications

4.2 The Director of Place, Planning and Growth has sub-delegated the task of determining the following planning application categories to officers of the Local Planning Authority (LPA).

Schedule 1 Applications (Regulation 4)

Applications that must be determined by officers.

Schedule 2 Triaged Applications (Regulation 5)

Triaged Applications identified in the Scheme of Delegation.

Schedule 2 Residual Applications (Regulation 5)

Triaged Applications capable of being identified and determined by officers.

Residual Schedule 2 And Own-Interest Application

4.3 The role of Nominated Member and Nominated Officer is to decide whether a non-triaged Schedule 2 application or an Own-Interest Application is determined by Committee. Where it is not to be determined by committee, the Director of Place, Planning and Growth has sub-delegated the task of determining the following planning application categories to officers of the LPA.

Schedule 2 Non-Gateway-Test Applications (Regulation 5)

Own-Interest Applications (Regulation 6)

Other Planning Matters

4.4 The Constitution delegates all planning matters to the Director of Place, Planning and Growth, save for those matters that must be determined by the Council or the Planning Committee. The Director of Place, Planning and Growth has sub-delegated the task of determining the following planning matters to officers of the LPA.

- 4.5 With respect to a planning matter that is delegated to the Director of Place, Planning and Growth but is not listed above, the Director of Place, Planning and Growth can, at their discretion, sub-delegate the task of determining the matter to another officer.

5. USE OF DELEGATED POWERS

- 5.1 When using delegated powers or referring a matter to committee for determination, the Nominated Officer and the Nominated Member, when involved, and an officer of the LPA must make sure that they take such decisions in the appropriate way and that they are recorded. This should be captured in the associated delegated or committee report with respective sections titled:

- Reason for determining under delegated powers
- Reason for referral to Committee

- 5.2 These reasons should be succinct but clear.

SCHEDULE 1

- 5.3 These applications must always be determined under delegated powers and cannot be referred to committee for determination. The associated delegated report should therefore state:

This is a Schedule 1 Application. By virtue of Regulation 4, it must be dealt with under delegated powers.

SCHEDULE 2

Triaged Applications

- 5.4 Some categories of application in Schedule 2 have been identified in the Scheme of Delegation as Triage Applications and should be determined under delegated powers. The other categories of application in Schedule 2 can be treated as a Triaged Application by officers if they consider that, in the context of a particular application, the criteria in the Gateway Test (see below) are clearly not engaged. In both cases, the associated delegated report should state:

This is a Schedule 2 Application. By virtue of Regulation 5, it should be dealt with under delegated powers because the Gateway Test is not engaged.

Gateway Test Applications

- 5.5 The Regulations make provision, in Regulation 5(3), for the matters that must be considered by the Nominated Member and Nominated Officer when they agree whether or not to refer a proposal to determine a Schedule 2 Application to committee. They are known as the Gateway Test and are that the proposal raises:
- a) one or more issues of economic, social or environmental significance to the local area; or
 - b) one or more significant planning matters having regard to the development plan and any other material considerations.

- 5.6 If it is agreed to refer an application to committee, that decision and the reasons for it should be set out succinctly and clearly in the associated committee report as follows:

This is a Schedule 2 Application. By virtue of Regulation 5, it is being reported to Committee because the Nominated Member and Nominated Officer agree that it is necessary because it raises one or more issues of economic, social or environmental significance to the local area and/or it raises one or more significant planning matters having regard to the development plan and any other material considerations.

- 5.7 If it remains a delegated decision, the associated delegated report should state:

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 because it does not raise any issues of economic, social or environmental significance to the local area and nor does it raise any significant planning matters having regard to the development plan and any other material considerations.

TRIAGE PROCESS FOR OWN-INTEREST APPLICATIONS

- 5.8 These are applications made by or on behalf of:

- a) the Council;
- b) a Member of the Council;
- c) an officer of the Council; or
- d) the Council or any of its Members or officers otherwise has an interest in the application.

Own-Interest Applications: Applicant Considerations

- 5.9 In this context, category (c) an Officer of the Council, should normally be narrowed to only apply to:

- a Senior Officer of the Council; or
- an 'officer of the Local Planning Authority'.

- 5.10 The first would be defined as Service Head level and above.

- 5.11 The second, would be defined as an officer within the Council who, in the opinion of the Director of Place, Planning and Growth, is closely involved in the day-to-day work of the Council's planning function.

- 5.12 It is reasonable to conclude that other officers of the Council would probably not be known to the planning service and therefore the risk of bias is not engaged. Such applications should be determined in the same way that any other application in that Schedule would be determined. The details of the Own-Interest applicant status should be recorded in the respective committee or delegated report with the following introduction:

This is an Own-Interest Application because the applicant is an officer of the Council, but as they are not a senior officer nor closely involved in the day-to-day work of the Council's planning function it has not been reported to Committee for that reason. This is a Schedule 1 Application. By virtue of Regulation 4, it must be dealt with under delegated powers.

This is a Schedule 2 Application. By virtue of Regulation 5, it should be dealt with under delegated powers because the Gateway Test is not engaged.

Own-Interest Applications: Development Considerations

5.13 For any application:

- caught by the above category (c) 'Own-Interest applicant status' criteria; or
- an Own-Interest Application in categories (a), (b) and (d);
- with respect to whether there is a good reason to refer that application to committee because of the nature of the development, the following criteria should be used:

Such an Own-Interest Application should only be considered by the Nominated Member and Nominated Officer for referral to and determination by Committee if one of the following criteria applies:

- the proposal has been advertised under Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) (DMPO) because it does not accord with the provisions of the development plan; or
- one or more material planning considerations are raised that have the potential to have a significant impact.

5.14 This allows the circumstances of each application to be assessed and if it is for a development that complies with policy and there is not considered to be a material planning objection, it can be dealt with under delegated powers, with the reason recorded in the delegated report as follows:

This is an Own-Interest Application. By virtue of Regulation 5, it is not being reported to Committee because it has not been advertised under Article 15 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GMPO) as a departure and nor is there considered to be a material planning objection.

5.15 Where either of these criteria applies, the Nominated Member and Nominated Officer must agree that it is necessary for the planning application to be referred to and determined by committee and this should be recorded in the normal way in the associated committee report as follows:

This is an Own-Interest Application. By virtue of Regulation 5, it is being reported to Committee because the Nominated Member and Nominated Officer agree that it is necessary because [it has been advertised under Article 15 of the GMPO as a departure] [and] [there is considered to be a material planning objection].

5.16 Limitations should be set on the receipt of material planning considerations by the Planning Service to ensure that these matters can be safely administered, and the risk of fraudulent objections is minimised:

A material planning consideration must have been made in writing in response to the publicity/advertisement/notification of the application, be from a person with an address within the Local Planning Authority area and be received within the specified deadline.

- 5.17 With these safeguards in place, such applications will be put to committee where that serves a legitimate purpose but can be dealt with under delegated powers where Committee involvement is not necessary.
- 5.18 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, sub-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 or on behalf of a nominated officer or member or an entity owned or controlled (whether wholly or partly) by a member or officer (including jointly with another person), in the interests of propriety, they should not be involved in the decision on whether to refer it to committee or not.

OFFICER'S DISCRETION TO USE DELEGATED POWERS

- 5.19 With respect to planning applications covered by the Regulations, officers do not have discretion to decide to report a matter to committee. Only the Nominated Member and Nominated Officer can jointly take that decision.
- 5.20 With respect to any other planning matter that is capable of being dealt with under delegated powers, an officer does have the ability, in their absolute discretion, to decide that it is not appropriate in the circumstances of a particular case to exercise those powers with respect to that planning matter and therefore report it to Members for determination. Again, it is not possible to advise further on this because these are essentially exceptional circumstances.
- 5.21 In both cases, that decision and the reasons for it should be set out succinctly and clearly in the associated committee report, as follows:

This is [describe the planning matter]. It is being reported to the Planning Committee because the Director of Place, Planning and Growth considers that it is necessary because [...].

LOBBYING

- 5.22 The Council's Scheme of Delegation prohibits the Nominated Member or the Nominated Officer or any other officer of the authority, when exercising their powers under Regulations 4, 5 or 6 and the Scheme of Delegation, being lobbied or otherwise contacted by any person or organisation, including by Members or officers of the relevant authority, to use their power in a particular way.
- 5.23 The Constitution requires that any such lobbying that is received should be reported to the Monitoring Officer, who must develop and publish procedures to deal with these issues and other vexatious planning complaints.