



**WEST OXFORDSHIRE
DISTRICT COUNCIL**

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Name and date of Committee	COUNCIL – 22 JULY 2026
Subject	PLANNING COMMITTEE REFORM UNDER THE PLANNING AND INFRASTRUCTURE ACT 2025
Wards affected	All
Accountable member	Liz Leffman - Executive Member for Planning and Infrastructure Email: liz.leffman@westoxon.gov.uk
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Summary/Purpose	To provide Members with a detailed overview of forthcoming changes to the functioning of Planning Committees in England which will come into effect on 31 st October 2026 through The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.
Annexes	Annex A – Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England
Recommendation(s)	That Council resolves to: 1. Note the content of the report; and 2. Request that the Constitution Working Group further consider the implications of the new Regulations and how they need to be reflected in any changes to the Council's Constitution, prior to the Regulations coming into effect on 31st October 2026.
Corporate priorities	• Putting Residents First • Working Together for West Oxfordshire

Key Decision	NO
Exempt	NO
Consultees/ Consultation	The Government has consulted a number of times on the need for additional delegation and the arrangements that they are intending to make in introducing a national scheme of delegation. The Council has engaged with that consultation exercise, the outcome of which has now been published online and reflected in new statutory guidance which is attached to this report at Annex A.

I. EXECUTIVE SUMMARY

- I.1 From 31 October 2026, new Regulations will introduce a national scheme of delegation for planning functions together with a maximum size for local authority planning committees. These changes represent the most significant reform to local planning decision-making in many years and will require the Council to amend its Constitution and associated governance arrangements.
- I.2 The Government's objective is to provide greater consistency, certainty and efficiency in planning decision-making by ensuring that planning committees focus on proposals of genuine strategic or local significance, with the majority of planning decisions being determined by Officers.
- I.3 Under the new Regulations:
 - **Schedule 1 functions** must be delegated to Officers;
 - **Schedule 2 functions** will be presumed to be delegated to Officers unless both the nominated Officer and nominated Member agree that the application should be referred to a planning committee and that it satisfies at least one of the statutory referral criteria; and
 - **Own-interest applications** may be referred to committee where the nominated Officer and nominated Member consider this appropriate in accordance with the Regulations.
- I.4 The Regulations also remove many existing local discretionary arrangements currently contained within the Council's Constitution. For example, the ability for ward Members to request that applications be determined by committee, or for applications to be referred to committee because they have attracted a specified number of objections, will no longer be possible.
- I.5 The Council will therefore be required to review and amend its Constitution to ensure it complies with the new statutory framework. Failure to do so could place the lawfulness of planning decisions at risk.
- I.6 Whilst the Government has consulted extensively on these proposals, the Regulations have now been made and will come into force in only a few months' time. This report therefore provides Members with an overview of the new national arrangements and identifies the principal constitutional and governance issues that will need to be addressed ahead of implementation.
- I.7 Given the significance of these changes and the range of constitutional, procedural and governance matters that require consideration, it is recommended that the Constitutional Working Group be asked to undertake a detailed review and report back to Council with recommendations on the amendments required to implement the new regime in West Oxfordshire by 31 October 2026.

2. BACKGROUND

- 2.1 The Planning and Infrastructure Act 2025 introduced measures to reform planning committees in England. This includes a national scheme of delegation for planning functions and a cap on the size of planning committees, the details of which are set out in The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. These come into force on 31 October 2026.
- 2.2 Ahead of the Regulations coming into effect, the Government has published statutory guidance which is attached to this report at Annex A. Under the Town and Country Planning Act 1990, local planning authorities must have regard to the guidance in operating or making arrangements required under the Regulations.
- 2.3 The proposals represent a major change to the extent to which Members will have involvement in determining planning applications. The rationale is that there will be greater consistency and certainty for developers, the process will be faster/cheaper and less inclined to “rogue decisions” motivated by non-planning matters.
- 2.4 The main provisions of the Regulations and associated statutory guidance are summarised in Section 3 below.

3. NATIONAL SCHEME OF DELEGATION

- 3.1 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 Officers for a decision and which should go to committee.
- 3.2 The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 puts this into effect as follows:
 - Schedule 1 decisions must be delegated to Officers
 - Schedule 2 decisions will be presumed to be delegated to Officers unless the nominated Officer and nominated Member agree that the application should be referred to the committee and that it meets at least one of the relevant criteria.

Schedule 1 Functions

- 3.3 The statutory guidance attached at Annex A lists all Schedule 1 functions which must be delegated to Officers (unless it is an ‘own interest’ application). In summary, this includes householder development, minor commercial development, minor residential development, discharge of conditions, prior approval for permitted development rights and various other functions including smaller reserved matters applications.
- 3.4 However, paragraph 19 of the Guidance sets out that 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 retrospective and as such made under section 73A of the Town and Country Planning Act 1990.

Schedule 2 Functions

- 3.5 Schedule 2 applications are those where there is a presumption that the decisions will be delegated to Officers unless the nominated Officer and nominated Member agree that the application should be referred to a planning committee or sub-committee for determination and that it meets at least one of the criteria in regulation 5(3).
- 3.6 The nominated Officer is the Chief Planning Officer or equivalent and the nominated member is the Chair of the planning committee.
- 3.7 The relevant criteria (at least one of which must be met) are:
- 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.
- 3.8 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.
- 3.9 In relation to criterion A, what constitutes 'significant' will vary but the Guidance suggests that 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.
- 3.10 In relation to criterion B, the Guidance suggests that 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).

- 3.11 The functions which fall within Schedule 2 of the Regulations set out in full in the Statutory Guidance attached at Annex A but include for example, 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 or where it is related to a large outline planning permission, applications for reserved matters approvals.
- 3.12 Members should note that it is not a requirement of the national scheme of delegation that nominated Officers and nominated Members consider all Schedule 2 applications or all 'own-interest' applications for potential referral to committee. Whilst the regulations provide for the option for Schedule 2 applications to be considered by committee against the 'gateway test' they do not require all schedule 2 applications to be considered.
- 3.13 The Council can therefore through its own constitution, decide which Schedule 2 or 'own-interest' applications need to be considered for referral.
- 3.14 It should also be noted that whilst nominated Officers and nominated Members should make every effort to reach agreement on which cases should be referred to committee, where agreement is not possible, the case must be determined by Officers.

'Own-interest' applications

- 3.15 An 'own-interest' application is described as an application made by the LPA or officer or member or where an officer or member has an interest. These applications can be referred to a planning committee if the nominated Officer and nominated Member of the planning committee agree, without the need for consideration of the criteria set out in regulation 5. Where no such referral has been made, they must be determined by an Officer.
- 3.16 Where the application is made by, or relates to, the nominated Officer or nominated Member themselves, they must not be involved in deciding whether it should be referred to committee. Additionally, local authority planning applications must not be determined by any committee, sub-committee or officer responsible for managing the land or building that is the subject of the application.

Other types of application (reserved matters, Section 106 and special control applications)

- 3.17 A distinction is made between those reserved matters approval applications which relate to large outline planning permissions and those which do not, with the former being placed in Schedule 2 and the latter in Schedule 1.
- 3.18 For the purpose of the Regulations, a large outline planning permission is an outline planning permission 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.
- 3.19 A reserved matters application for such development must meet the criteria set out under regulation 5 for a committee to consider it. Any referral should be based only on matters directly relevant to the reserved matters application under consideration, not on issues already established through the outline permission.
- 3.20 The regulations do not make specific provision for the approval of new Section 106 agreements, as these are usually negotiated as part of the planning application process or entered into unilaterally by the landowner. Where standalone Section 106 agreements arise, it is for the local planning authority to decide whether they should be determined by officers or referred to committee.
- 3.21 However, where an application is made to modify or discharge an existing Section 106 obligation, the decision should follow the same decision-making route (officer or committee) as the original related planning application.
- 3.22 Applications for listed building consent, advertisement consent and consent under tree preservation orders are included in Schedule 2. In most cases, these types of application will not raise issues which would merit committee scrutiny. The presumption, therefore, is that decisions should be delegated to officers and only exceptionally referred to committee.
- 3.23 Whether such an application meets the criteria in regulation 5(3) will depend on the particular circumstances but an example could include where there are proposals for a change of use and works to a prominent listed building which makes an important contribution to a town centre.

Transparency and Reporting

- 3.24 The statutory Guidance suggests that, as a minimum, the local planning authority should keep a record of the cases the nominated officer and nominated member have considered for referral to committee, the outcome of their consideration and the reasons for their decision. This should be reported to the planning committee on a regular basis and also made available online.

4. SIZE OF COMMITTEES

- 4.1 The Regulations require the number of members on a planning committee or sub-committee to be no more than 13. This is a maximum figure to accommodate local planning authorities where members are from multiple political parties.
- 4.2 Local planning authorities are however encouraged to consider whether a smaller number of members would be more appropriate in their area to support effective decision making.
- 4.3 Consideration will therefore need to be given to the new Strategic Planning Committee, which currently has 24 Members, and whether there will be a continuing need for a parent and sub-committee structure.

5. CONCLUSIONS

- 5.1 The introduction of a national scheme of delegation represents one of the most significant changes to local planning decision-making for many years. Whilst the Government's intention is to provide greater consistency, certainty and efficiency through increased Officer delegation, the practical effect will be a substantial reduction in the range of planning applications that can be determined by elected Members through the planning committee process.
- 5.2 Officers recognise the potential benefits identified by Government, including greater consistency in decision-making, improved certainty for applicants and the opportunity to focus committee time on the most significant planning proposals. Equally, however, the new arrangements represent a fundamental shift away from the long-established locally determined schemes of delegation towards a more technical, officer-led decision-making process, comparable in many respects to the Building Regulations regime.
- 5.3 The Regulations also raise a number of significant constitutional, procedural and governance issues which require careful consideration before they come into force on 31 October 2026. These include, amongst other matters, the designation of the nominated Officer and nominated Member (and appropriate deputies), the local process for considering potential Schedule 2 referrals, the future role and structure of the Council's planning committees, arrangements for transparency and reporting, and the support and protections available to Officers who will become solely responsible for determining a much wider range of often contentious planning applications.
- 5.4 There is also a need to consider whether any planning functions falling outside Schedules 1 and 2 should continue to be determined by committee under the Council's Constitution.

- 5.5 Whilst the Council raised concerns during the Government's consultation process, the Regulations will take effect within a relatively short timeframe. It is therefore essential that the Council prepares for implementation to ensure that its Constitution and decision-making arrangements comply with the new statutory requirements and minimise the risk of legal challenge.
- 5.6 It is therefore recommended that the Constitutional Working Group be asked to undertake a detailed review of the issues arising from the new national scheme of delegation, including those identified within this report and any additional matters raised by Members, and report back to Council in September 2026 with recommendations for the necessary constitutional amendments and local operating arrangements.
- 5.7 This will provide the Council with the opportunity to implement the new regime in a manner which remains compliant with the Regulations whilst, so far as the new statutory framework allows, maintaining transparency, accountability and the effective operation of the Planning Service.

6. ALTERNATIVE OPTIONS

- 6.1 In theory, the Council could continue its current practices and effectively disregard the new regulations which come into force on 31st October 2026. However, the Government has set out that failure to adopt the new arrangements could put any decision made through retaining non-compliant processes at risk of judicial review.

7. FINANCIAL IMPLICATIONS

- 7.1 Failure to introduce the new arrangements could lead the Council open to legal challenge with its attendant costs.

8. LEGAL IMPLICATIONS

- 8.1 See above.

9. EQUALITIES IMPACT

- 9.1 (Under equality legislation, the Council has a legal duty to pay 'due regard' to the need to eliminate discrimination and promote equality in relation to:
- Race
 - Disability
 - Gender, including gender reassignment
 - Age
 - Sexual Orientation
 - Pregnancy and maternity
 - Religion or belief

- 9.2 The Council also has a duty to foster good relations, and to consider the impact of its decisions on human rights. The law requires that this duty to pay 'due regard' is demonstrated in the decision making process. However these upcoming changes are mandated by Government and they have undertaken their own assessment of the introduction of the new national scheme of delegation

10. SUSTAINABILITY IMPLICATIONS

11. These upcoming changes are mandated by Government and they have undertaken their own assessment.

12. BACKGROUND PAPERS

None.