

London Borough of Waltham Forest

Report Title	Amendments to the Constitution: Planning Committee Terms of Reference and Planning Code of Practice
Meeting / Date	Council, 16 July 2026
Directorate	Place
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Wards affected	All
Public access	Open
Appendices	Appendix 1 - Planning Committee Terms of Reference – tracked changes Appendix 2 - Planning Code of Practice – tracked changes

1. Summary

- 1.1. The Government has introduced a new national scheme of delegation for the determination of planning applications (and related matters), Regulations have been laid before Parliament and will, if approved, come into effect on 31st October 2026.
- 1.2. It is necessary for the Planning Committee Terms of Reference and Planning Code of Practice to be revised in order to align with the changes brought about by the Regulations.

2. Recommendation

- 2.1. Council is recommended to approve:
 - 2.1.1. The proposed changes to the Planning Committee Terms of Reference at Appendix 1 and
 - 2.1.2. The proposed changes to the Planning Code of Practice at Appendix 2.

3. Background

- 3.1. The Government introduced measures through the Planning and Infrastructure Act 2025 to give a new power to the Secretary of State to set out which planning functions should be delegated to planning officers for a decision and which should instead go to a planning committee or sub-committee.

- 3.2. 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. The Government has indicated that 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.
- 3.3. The Government consulted on draft regulations and draft guidance in March/April 2026 for four weeks and has now published a response to this consultation, along with final versions of the Regulations (laid before Parliament) and statutory guidance.
- 3.4. The Government has advised that local authorities will need to amend their constitutions to align with the national scheme of delegation, and that failure to do so may place planning decisions at risk of judicial review.

4. Proposals

- 4.1. The national scheme of delegation creates two schedules of application types. Schedule one applications must always be delegated to officers and Schedule two applications may be determined by Planning Committee if the Assistant Director Development Management & Building Control and the Chair of Planning Committee agree it should be and it meets one of the criteria specified in the Regulations.
- 4.2. There is further specific provision for "own-interest" applications (i.e. applications made by or on behalf of the Council, an officer or a member, or an application where the Council, officer or member has an interest.
- 4.3. Schedule one applications are: householder applications, minor residential applications (less than 10 homes), minor commercial applications (less than 1,000sqm), certificates of lawfulness, non-material amendments, Section 73 applications (where the original application was in Schedule 1), requests and applications to modify section 106 agreements that related to Schedule 1 applications, discharge of planning conditions (including biodiversity gain plans), prior approval applications, reserved matters applications (other than those relating to large outline applications), permission in principle and certificates of appropriate alternative development.
- 4.4. Under the current terms of reference there is an ability for ward members/neighbouring ward members to request that applications are referred to planning committee. In addition, applications with 5 or more representations that are recommended for approval are also referred to committee. This will no longer be possible, and the terms of reference need to be updated to reflect this.
- 4.5. Schedule two applications are: listed building consent applications, variation of listed building consent applications, planning applications connected to listed building consents (or variations), major planning applications (10 or more homes, 1000sqm or more of commercial

floorspace, or site area 1ha or more), Section 73 applications (where the original application was schedule 2), retrospective planning applications, requests and applications to modify section 106 agreements that related to Schedule 2 applications, advertisement consent applications, applications for works to protected trees and reserved matters applications relating to large outline permissions (500 or more homes and/or 50,000 sqm or more of floorspace).

- 4.6. The overriding presumption contained the in the Statutory Guidance is that applications listed in Schedule two will be delegated to officers and an application can only be referred to committee where the Assistant Director Development Management & Building Control and the Chair of Planning Committee agree to the referral and in their view, it 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.
- 4.7. The inclusion of all listed building applications, protected tree applications, retrospective applications alongside all major applications would, without further refinement, mean that the Assistant Director Development Management & Building Control and the Chair of Planning Committee would have to consider approximately 150 applications a year. Most listed building applications, protected tree applications, retrospective applications are uncontroversial and are very rarely referred to committee. In addition, some uncontroversial major applications have not required referral to planning committee.
- 4.8. It is therefore proposed to automatically delegate Major applications and Section 73 Major applications where there is less than 5 qualifying representations and/or no member call-in (but not Section 73 applications where the parent application had 5 or more qualifying representations and/or member call-in). Schedule two special interest applications (Listed building, protected trees and adverts) and Section 73A retrospective applications would be delegated where there is less than 2 qualifying representations and/or no member call-in. A similar delegation is also proposed for own interest applications. In relation to all other applications the Assistant Director Development Management & Building Control and the Chair of Planning Committee will meet to agree whether the criteria set out in paragraph 4.6 above has been met.
- 4.9. The Planning Code of Practice has been updated to reflect these proposed changes to the Terms of Reference, as well as reflect other changes in legislation since it was last approved in 2017. It is also proposed to introduce the ability for Planning Committee to receive technical presentations from officers, in advance of determination of an application and to provide additional guidance on the process in committee if members are considering voting on a motion that is different to the officer's recommendation. This is based on best practice

from the Planning Officers Society to ensure that the Council is making robust and defensible decisions.

- 4.10. Lastly, respondents to the Government's consultation on the draft Regulations and guidance have highlighted a risk that the senior planning professional may be pressurised to determine schedule one delegated applications in a particular way, or agree to refer schedule two applications to committee, therefore additional guidance on this has been included.

5. Consultation

- 5.1. The Constitution Working Group and the Audit and Governance Committee have endorsed the changes to the Planning Committee Terms of Reference and the Planning Code of Practice.
- 5.2. The Chair and Vice-Chair of Planning Committee, and the relevant Portfolio Lead Member have been consulted and support the proposals.

6. Conclusion

- 6.1. The report sets out details of the Government's national scheme of delegation and the proposed changes to the Planning Committee Terms of Reference and Planning Code of Practice required for alignment.

7. Implications

7.1. Finance, Value for Money and Risk

7.1.1. None specifically.

7.2. Legal

- 7.2.1. Section 319ZZC was inserted into the Town and Country Planning Act 1990 by the Planning and Infrastructure Act 2025. This section gives the Secretary of State power to make regulations to create a national scheme of delegation prescribing which local planning functions must be decided by planning officers and which should go to planning committee.
- 7.2.2. The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 ("the 2026 Regulations") have been laid before Parliament and are due to come into force on 31 October 2026. Schedule 1 applications must be delegated to officers under Regulation 4 and Schedule 2 applications are presumed delegated under Regulation 5 unless the nominated officer (the Assistant Director Development Management & Building Control) and the nominated member (Chair of Planning Committee) agree to committee referral and at least one of the Regulation 5(3) criterion is met which are that the application 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.

- 7.2.3. If the Council does not comply with the 2026 Regulations and Planning Committee determines applications that ought to have been delegated to officers under this new national scheme of delegation, anyone aggrieved by a decision can judicially review it which may lead to decisions being quashed by the Courts.

7.3. Equalities and Diversity

7.3.1. None specifically.

7.4. Sustainability (including climate change, health, crime and disorder).

7.4.1. None Specifically.

7.5. Council Infrastructure (e.g. human resources, accommodation or IT issues

7.5.1. None specifically.

Background Information (as defined by Local Government (Access to Information) Act 1985)

None