

This report is public	
Constitution Update - National Scheme of Delegation of Planning Functions	
Committee	Council
Date of Committee	19 October 2026
Portfolio Holder presenting the report	Portfolio Holder for Law and Governance, Councillor Frank Ideh
Date Portfolio Holder agreed report	5 October 2026
Report of	Monitoring Officer, Shiraz Sheikh

Purpose of report

The Constitution is the document by which, in accordance with the law, the Council exercises all its powers and duties. It is essential that it is reviewed to ensure it remains fit for purpose and compliant with legislation. This report puts arrangements in place to amend the Constitution when national changes to the functioning of Planning Committees in England come into effect on 31 October 2026.

1. Recommendations

Full Council resolves:

- 1.1 To adopt the proposed amendments to the Council's Constitution set out in Appendix 1.
- 1.2 To approve the Assistant Director Planning as the Council's Nominated Officer (with the Head of Development Management as their substitute) and the Chair of Planning Committee as the Council's Nominated Member (with the Vice Chair of Planning Committee as their substitute) for the purposes of the 2026 Regulations.
- 1.3 To note the planning procedure flowchart set out at Appendix 2.
- 1.4 To note the delegated authority in the Constitution to the Monitoring Office to update the Constitution to reflect the such changes to the Constitution as they deem necessary and in the Council's interests and which do not materially change any principles previously approved by the Council, including routine revisions to provide clarity, correct typographical and other drafting errors, reflect new legislation or give effect to decisions of Council, the Executive, a committee or sub-committee.

2. Executive Summary

- 2.1 The Local Government Act 2000 requires Councils with executive arrangements to maintain a constitution. The constitution specifies how the Council functions, how Cherwell District Council

decisions are made and the procedures for ensuring efficiency, transparency and accountability. A well-developed constitution is crucial for good governance, effective management and responsible stewardship of public funds.

- 2.2 Amongst the duties of the Monitoring Officer is responsibility for monitoring and reviewing the operation of the Constitution, and for recommending ways in which it can be amended.
- 2.3 Changes to the Constitution may only be made with the approval of the Council and/or by the Monitoring Officer arising from decisions of the Council or the Executive; where legislation requires a change in wording or terminology; or to make minor or consequential amendments.
- 2.4 This report sets out proposed changes to the Council's Constitution linked to a new National Scheme of Delegation of Planning Functions introduced by the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 ("the Regulations"), which come into effect on 31 October 2026. The changes will result in a greater share of day-to-day planning applications being handled by planning officers as opposed to being referred to Planning Committee.

Implications & Impact Assessments

Implications	Commentary
Finance	There are no financial implications arising directly from this report. Michael Furness, Assistant Director Finance (S151 Officer), 8 October 2026
Legal	The new Regulations make changes as to which applications must or may be determined by officers, and which are for determination by the Planning Committee. Statutory guidance supports the Regulations, giving further detail as to how they should be interpreted. As the changes come into force on 31 October 2026 our constitution needs amending to reflect the requirements of the Regulations and guidance. Shiraz Sheikh, Monitoring Officer, 7 October 2026
Risk Management	Since 15 June 2026, the Council has been designated by the Government for quality of decision-making in respect of applications for planning permission for major development. This means that applicants proposing major developments, such as large housing schemes or commercial projects, can now choose to bypass the local authority and submit their planning applications directly to the government's Planning Inspectorate. Further reputational damage/risk and associated financial costs could be incurred associated with any planning decisions made that do not comply with the Regulations. Shiraz Sheikh, Monitoring Officer, 7 October 2026

Impact Assessments	Positive	Neutral	Negative	Commentary
Equality Impact		X		N/A
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
Climate & Environmental Impact				N/A
ICT & Digital Impact				N/A
Data Impact				N/A
Procurement & subsidy				N/A
Council Priorities	N/A, this report is pursuant to a statutory requirement			
Human Resources	N/A			
Property	N/A			
Consultation & Engagement	Planning; Political Group Leaders and / or Deputies; Chair of Planning Committee; Portfolio Holder for Planning and Enforcement			

Supporting Information

3. Background

- 3.1 On 15 July 2026, the Government made the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. The Regulations come into force on 31 October 2026. A copy of the Regulations is

attached as Appendix 3. The Council must amend its constitution to align with the Regulations and the new National Scheme of Delegation of Planning Functions.

- 3.2 The proposed changes set out at Appendix 1 are aimed at ensuring that the Council's constitution meets these requirements and complies with the law.
- 3.3 The Regulations and accompanying statutory guidance mark a major shift towards a more officer-led planning system, with restrictions on what types of application can be referred to the Planning Committee. Routine and policy-compliant applications are expected to stay out of committee; councillor call-ins are curtailed; and committees are intended to focus only on genuinely significant or contentious planning applications.

4. Details

National Scheme of Delegation of Planning Functions

- 4.1 The Regulations require the Planning Committee in future to focus on major or genuinely significant planning matters, while officers determine routine and technical cases. The changes are intended to bring greater consistency across England in respect to decision-making and reduce the overall number of planning application going to Planning Committee.
- 4.2 The new system creates two broad categories of application:
 - (a) Schedule 1 – applications that must be decided by planning officers in all cases;
 - (b) Schedule 2 – applications that are presumed to be officer-decided, unless specific referral tests are met and senior decision-makers agree that they should go to committee

Schedule 1: Mandatory Officer Decisions

- 4.3 These applications must be decided under delegated powers to officers and cannot go to committee (except some council "own-interest" cases). Examples of Schedule 1 applications include:
 - (a) Householder applications (extensions, lofts, etc.) ;
 - (b) Minor commercial development;
 - (c) Minor residential development (up to 9 homes on sites under 0.5 hectares);
 - (d) Where it is not related to a phase of development in an outline planning permission;
 - (e) Reserved matters approvals;
 - (f) Discharge of conditions;
 - (g) Prior approval for permitted development rights;
 - (h) Permission in principle;
 - (i) Requests to agree or modify a planning obligation that relates to a schedule 1 development;
 - (j) Non-Material Amendment applications to a planning permission or permission in principle;

- (k) Certificates of lawfulness;
- (l) Biodiversity net gain plan;
- (m) Certificates of appropriate alternative development.

4.4 Any of the above applications will fall into Schedule 2 in any of the following circumstances:

- (a) The Local Planning Authority considers that a Schedule 1 application is for planning permission that is connected to a Schedule 2 application for Listed Building Consent or for the variation or discharge of condition to a Listed Building Consent;
- (b) An application that would be Schedule 1 but is made under s.73A of the Town and Country Planning Act 1990 (retrospective planning permission);
- (c) An application that is made by or on behalf of a local authority, a member of that local authority or an entity owned or controlled by the local authority.

Schedule 2: Committee referral becomes the exception

- 4.5 Larger or more complex applications fall into Schedule 2, but there is still a strong presumption for officer determination. A case can only go to committee if:
- (a) it meets at least one statutory significance (or 'gateway') test under Regulation 5(2) or is an application made by or on behalf of the local authority, or member or officer of that authority, or an entity owned or controlled by that that authority or any of its members or officers (Regulation 6); and
 - (b) the Nominated Planning Officer and Nominated Member both agree to refer it. If they cannot agree, the application stays with officers.

Gateway tests and what counts as 'significant'

4.6 Committee referral should be exceptional, not routine. At least one of these tests must apply for a referral to Planning Committee:

- (a) A significant planning matter in relation to the Development Plan or material considerations; or
- (b) A significant economic, social, or environmental issue for the local area.

4.7 The guidance says cases are unlikely to justify committee referral if they broadly comply with the adopted Local Plan, and technical concerns (e.g. highways or flooding) have been resolved.

4.8 In relation to who should carry out the Gateway Test, the guidance states that:

"For the purposes of considering referral of applications to committee:

- a. the nominated officer should be the Chief Planning Officer or equivalent officer who has extensive professional planning experience. However, local planning authorities will also need to ensure they have other senior planning officers who can provide cover if needed to avoid any unnecessary delays in the referral process (or where there is an own interest application and the Chief Planning Officer or equivalent officer has an interest it).*

- b. the nominated member should be the chair of the planning committee or, where such a role does not exist, the vice chair or equivalent member. As in the case of nominated officers, the authority will need to ensure there are arrangements in place for other members to cover should the nominated member not be available (or where there is an own interest application and the nominated member has an interest in it)."*

4.9 Other changes introduced by the Regulations include:

- (a) Ward councillors will no longer be able to 'call in' applications;
- (b) Applications will not be referred to Planning Committee following a set number of public objections;
- (c) The Council must designate gatekeepers to decide jointly whether eligible cases should be referred to committee. This requires a Nominated Officer (typically the Assistant Director Planning as Chief Planning Officer), and a Nominated Member (typically the Planning Committee Chair). Both the Nominated Officer and Nominated Member should have designated substitutes in the event of absence or a conflict of interest (typically the [Deputy Planning in CDC's case, the Head of Development Management] and the Vice Chair of Planning Committee);
- (d) The Planning Committee (and any sub-committees) must have no more than 13 members, and authorities are encouraged to consider smaller committees for more effective decision-making.

4.10 The guidance warns that if councils continue sending applications to committee contrary to the Regulations after they take effect, decisions may be vulnerable to judicial review and potentially quashed.

4.11 The Council, as Local Planning Authority, should keep a record of the cases the Nominated Officer and Nominated Member have considered for referral to committee and reasons for their decisions. This should be reported to the Planning Committee on a regular basis and made available on the Council's website.

Next Steps

4.12 The Council must re-draft its constitution to accord with the new National Scheme of Delegation. Whilst it is free, to some extent, to define its own Gateway Test it must ensure that such a test accords with the Regulations.

4.13 Amendments to the constitution proposed within this report are therefore required to ensure planning decisions made after 31 October 2026 are legally compliant in accordance with the Regulations. The proposed changes are to:

- (a) the terms of reference of the Planning Committee;
- (b) the Officer Scheme of Delegation;
- (c) Proper Officers and Authorised Officer Appointments.

4.14 The new provisions set out:

- (a) the types of application that must be determined under powers delegated to

the [Assistant Director Planning on behalf of the Executive Director Place and Regeneration] without determination by the Planning Committee;

- (b) the types of application that must be determined under powers delegated to [Assistant Director Planning on behalf of the Executive Director Place and Regeneration] without determination by the Planning Committee unless the application passes the Gateway Test;
- (c) when applications submitted by or on behalf of the Council should be referred to Planning Committee;
- (d) how planning applications submitted by members and officers of the Council or close family relatives shall be considered;
- (e) the “Gateway Test” and how it will function, together with guidance to be considered when applying the test;
- (f) a series of notes designed to aid officers and members when interpreting the Gateway Test provisions;
- (g) clarification that all other functions not specified are delegated to the [Assistant Director Planning on behalf of the Executive Director Place and Regeneration].

5. Alternative Options and Reasons for Rejection

- 5.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not to amend the Constitution to reflect the National Scheme of Delegation Requirements

This is not recommended as this would increase the risk of legal challenge to any planning decisions issued by the Local Planning Authority not in accordance with the Regulations

6 Conclusion and Reasons for Recommendations

- 6.1 The Constitution is the document by which, in accordance with the law, the Council exercises all its powers and duties. It is essential that it is reviewed to ensure it remains fit for purpose and is in accordance with legislative changes.

Decision Information

Key Decision	N/A
Subject to Call in	N/A
If not, why not subject to call in	N/A

Ward(s) Affected	All
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Document Information

Appendices	
Appendix 1	Proposed amendments to the constitution
Appendix 2	Planning procedure flowchart
Appendix 3	The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026
Background Papers	None
Reference Papers	None
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Executive Director Approval (unless Executive Director or Statutory Officer report)	Report of Statutory Officer, Monitoring Officer