

Committee Name and Date of Committee Meeting

Council – 09 September 2026

Report Title

Planning Reform and Required Procedural Amendments

Is this a Key Decision and has it been included on the Forward Plan?

No

Executive Director Approving Submission of the Report

Judith Badger, Executive Director of Corporate Services

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

This report recommends that the Council's Constitution is amended to reflect the provisions of the Planning and Infrastructure Act 2025.

The Planning and Infrastructure Act 2025 introduced significant measures to reform planning committees in England, including a national scheme of delegation for planning functions and a cap on the size of planning committees.

The Town & Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 will come into force on 31 October 2026, at which time councils will be required to operate in accordance with the amended framework and statutory guidance which was published on 1 June 2026. To do so, the Council's Constitution will need to be amended.

The Regulations also provide for the number of members on a planning committee or sub-committee to be no more than 13. At present, the Planning Board in Rotherham has 15 members and as such this will need to be reduced. This has required a review of the entitlement of the political groups to seats on the committees of the Council.

Recommendations

That Council:-

1. Note the content of the report;
2. Approve amendment of the Constitution as set out in the Report and in particular the additions of Schedule 1 and 2 detailed in Appendix 1;

3. Note the reduction in size of the Planning Board to the maximum 13 Councillors permitted;
4. Approve the allocation of seats, in accordance with the political balance calculations, as set out in Report;
5. Approve the appointment of the Head of Planning Services and the Chair of Planning Board as the proper officer and the nominated member as per the statutory guidance; and
6. Delegate authority to make consequential amendments to guidance documents and the Scheme of Delegation (such as to the Probity in Planning: Code of Practice) to the Service Director: Legal Services and Monitoring Officer in consultation with the Head of Planning Services, the Portfolio Holder for Transport, Jobs and the Local Economy and the Chair and Vice Chair of Planning Board.

List of Appendices Included

Appendix 1 Schedule 1 and 2 Applications

Background Papers

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

[Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England - GOV.UK](#)

Consideration by any other Council Committee, Scrutiny or Advisory Panel
N/A

Council Approval Required
Yes

Exempt from the Press and Public
No

Planning Reform and Required Procedural Amendments

1. Background

- 1.1 On 26 March 2026 the Government published a consultation on the draft regulations required to implement a national scheme of delegation and set a limit on the size of planning committees. On 8 June 2026 those draft regulations were laid before the House of Lords and will come into force on 31 October 2026.
- 1.2 On 1 June 2026 the Government also published statutory guidance which Councils are required to have regard to when implementing the regulations.
- 1.3 The draft regulations propose to set a maximum size of 13 Members for a Planning Committee.
- 1.4 The draft regulations also set out requirements for certain types of application to be determined under officer delegation, i.e. may not be determined by a Planning Committee:-
 - (a) Schedule 1 to the draft regulations sets out that applications for planning permission for householder, minor residential and minor commercial development, as well as a number of supplementary and technical consents must be determined under officer delegation.
 - (b) Schedule 2 sets out the types of application which may be referred to a planning committee subject to the Gateway Tests which are set out in Regulation 5 and this requires agreement between the nominated Member (e.g. the Chair of the Committee) and officer (usually the Chief Planner or equivalent), but which otherwise must be delegated to an officer. These include any types of application for planning permission which are not in Schedule 1, variations of permissions, and special controls such as listed building and tree preservation order consents.
- 1.5 The Council presently has 15 members on the Planning Board and this will be required to be reduced by 2.
- 1.6 As such, it will not be possible for the Council's current arrangements to continue after 30 October 2026. The Council is consequently required to amend the Scheme of Delegation and to recalculate the Political Balance calculations based on these new requirements.

2. Key Issues

- 2.1 As described above the new legislative provisions that will come into force on 31 October 2026 are introduced in the Planning and Infrastructure Act 2025. Schedule 1 of the Regulations lists those applications which must be determined by an officer, unless they are connected to an application in Schedule 2 in which case they must go through a gateway process.

2.2 Schedule 1 applications are listed below:

- Householder.
- Minor residential and minor commercial development (1-9 dwellings on a site of less than 0.5 hectares) and other minor development to flats.
- Discharge of conditions.
- Reserved matters approvals (for non-phased development).
- Lawful development certificates.
- Certificates of appropriate alternative development.
- Non-material amendments.
- Biodiversity gain plans.
- Prior approval applications.
- Permission in principle.
- Changes to S106 obligations connected to the above type applications being amended under S106A.
- Reserved matters approvals for schemes under 500 residential units or below 50,000 sqm floorspace.
- Variation/removal of conditions on applications that fall within Schedule 1.

2.3 Schedule 2 lists those types of applications which may be determined by an officer or planning committee.

2.4 Schedule 2 applications include:

- Any applications for planning permission not in Schedule 1.
- Reserved matters approvals for phased development.
- Variations to permissions (known as S73 applications).
- Listed building consent.
- Variation or discharge of conditions to an LBC.
- Tree preservation order consents.
- Advertisement consent.
- Changes to S106 obligations connected to the above type applications being amended under S106A.
- Retrospective planning applications.

2.5 Applications made by a 'linked person', such as a Council officer or member, or made by or on behalf of the Council, will automatically be referred to the Planning Committee.

2.6 **Schedule 2 applications and the Gateway Test**

2.7 On 1 June 2026 the Secretary of State published statutory guidance setting out how Schedule 2 applications may be considered.

2.8 The regulations make provisions for the Council's nominated officer (Chief Planning Officer) and nominated member (Chair of Planning Committee) to agree using the gateway test that the application raises issues which need consideration by Planning Board. If there is no agreement, then the case must be delegated to officers. The gateway test involves the nominated

officer and member considering and concluding that the proposed development for Schedule 2 applications raises at least one of the following criteria:

- One or more issues of economic, social or environmental significance to the local area; or
- One or more significant planning matters having regard to the development plan and any other material consideration.

2.9 In considering whether to refer an application the officer and member must have regard to guidance issued by the Secretary of State. This guidance published on 1 June states 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. Local planning authorities may, through their Constitutions, decide which Schedule 2 or own-interest applications need to be considered for referral. The regulations provide for the option for Schedule 2 applications to be considered for Planning Board against the gateway test but do not require all Schedule 2 applications to be considered. As such the proposed decision provides delegated authority for the Monitoring Officer to amend this Scheme of Delegation in consultation with the Chair and Vice Chair of the Planning Board and the Head of Planning Services. This is to enable flexibility in the introduction of new measures which have not been fully tested, to ensure that the Council is able to respond to any issues that arise from the operation of the new arrangements and to align this element (in so far as is possible) with the existing arrangements.

2.10 **Planning Board and Political Balance**

2.11 In determining the size and composition of this Board, the Council must have regard to the statutory requirements relating to political balance under the Local Government & Housing Act 1989. These require, so far as reasonably practicable, that seats on committees are allocated in proportion to the overall political composition of the Council, subject to certain overarching principles (including that the majority group should have a majority of seats on ordinary committees).

2.12 Changes to the number of seats on a committee can have a material effect on how closely that proportionality can be achieved.

2.13 The current Planning Board has 15 seats whereas the new provisions allow for a maximum of 13 seats. There is no minimum set within this legislation.

2.14 Paragraphs 2.16 and 2.17 sets out the political balance implications arising from the reduction required in the number of seats:

- (a) The allocation still complies with the statutory requirement that the controlling group holds a majority of seats.
- (b) Owing to the amendments there is a change required to political balance of Overview and Scrutiny Management Board (OSMB) to

ensure that proportionality meets the other requirements set out in the legislation.

- 2.15 The proposed alterations, are intended to be the minimum changes required that remain in line with the statutory guidance.

2.16 **The Size of Planning Committees**

- 2.16.1 Section 7 of the Regulations state that:

A committee determining an application pursuant to arrangements under regulation 5 (applications that may be determined by a committee or an officer) or regulation 6 (Linked-person applications) may not comprise more than 13 members.

- 2.16.2 The current Planning Board for Rotherham Council comprises 15 members who were appointed in accordance with political balance requirements at the Annual Council Meeting, held on 20 May 2026. The allocation of seats for the Planning Board was as follows:

Seats Available – 15

Labour – 8

Conservative – 3

Liberal Democrat – 1

Non-Aligned – 3

- 2.16.3 The allocation of seats for the Planning Board as of 31 October 2026, based on the current political make-up of the Council, will be:

Seats Available – 13

Labour – 7

Conservative – 3

Liberal Democrat – 1

Non-Aligned – 2

2.17 **Changes to entitlement of the political groups to seats on the committees of the Council**

- 2.17.1 There are currently 144 seats available on committees, boards and panels and the entitlements are:

Labour – 80 seats

Conservative – 32 seats

Liberal Democrat – 7 seats

The seats allocated to the non-aligned councillors is 25 and the Council has previously enabled these Councillors to take seats on the various bodies as permitted by the Legislation.

- 2.17.2 Following the reduction in Planning Board members, as of 31 October there will be 142 seats available on committees, boards and panels. When

calculating the entitlements to seats, the following principles have to be followed:

- (a) Balance must be achieved across the total number of available seats on committees; and
- (b) Balance must be achieved on each individual committee or body where seats are available.

The allocations will therefore be:

Labour – 79 seats
Conservative – 31 seats
Liberal Democrat – 7 seats

The seats allocated to the non-aligned councillors is 25.

- 2.17.3 The reduction of 2 seats in the size of the Planning Board impacts the overall political balance calculations by reducing the total number of seats to be allocated. The only change to individual committee (in addition to Planning Board) that is required by the reduction in the number of seats overall is a change to Overview and Scrutiny Management Board. The number of seats available on OSMB remains the same but the allocation of those seats' changes. This means that the allocation to the Conservative Group from 31st October reduces from 3 to 2 seats and allocation to Non-Aligned members from 31st October increases from 1 to 2 seats. The reduction of the number of Councillors on OSMB aligns the allocation of seats most closely with the principles detailed in paragraph 2.11 above. The allocation of seats on Overview and Scrutiny Management Board will therefore be:

Seats Available – 12

Labour – 7
Conservative – 2
Liberal Democrat – 1
Non-Aligned – 2

3. Options considered and recommended proposal

- 3.1 Continuing with the current arrangements is not an option. The Council must amend the structure of its Planning Board by the time the draft regulations come into force, which is expected to be 31 October 2026.
- 3.2 Given the legal requirements other alterations to the Council's existing arrangements would be unlikely to be implemented in the timescales required to ensure that the Council is able to implement a lawful set of arrangements. Council could however ask that consideration be given to any alternative arrangements through the existing processes for considering proposals for amending the Council's Constitution.

4. Consultation on proposal

- 4.1 The contents of the Report provide for the implementation of legal requirements within the operation of the Council and therefore consultation outside of the Council has not taken place as that consultation would be unable to materially change the approach and would therefore run the risk of giving the false impression to those involved that the Council could amend the decision.

5. Timetable and Accountability for Implementing this Decision

- 5.1 The amendments will be implemented from 31st October as required by the legislation.

6. Financial and Procurement Advice and Implications

- 6.1 There is a statutory requirement for the Council to comply with legislation governing appointments to committees, boards and panels, ensuring that arrangements for political balance are maintained and that the Council meets its legal obligations. This regulatory change does not give rise to any direct financial or procurement implications.

7. Legal Advice and Implications

- 7.1 The Planning and Infrastructure Act 2025 inserted sections 319ZZC to 319ZZE into the Town and Country Planning Act 1990, providing the Secretary of State with powers to prescribe, through regulations, how specified local planning authority functions are to be discharged.
- 7.2 The draft Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (“the Regulations”) establish a National Scheme of Delegation which applies to all local planning authorities in England from 31 October 2026. The Regulations prescribe categories of applications which must be determined by officers and establish the circumstances in which certain applications may be referred to a planning committee for determination.
- 7.3 The Council is required to ensure that its constitutional arrangements are consistent with the statutory requirements imposed by the Regulations. The amendments proposed in this report are intended to give effect to those requirements and to provide clarity as to the allocation of planning decision making responsibilities within the Council.
- 7.4 Once the Regulations come into force, any planning decision taken otherwise than in accordance with the statutory scheme would expose the Council to a material risk of legal challenge and undermine the lawfulness and robustness of planning decisions taken after 31 October 2026. As stated in the statutory guidance:

“For the avoidance of doubt, where local planning authorities do not comply with the Regulations from the date they come into force (31 October 2026)

and their planning committees make decisions on applications which must be delegated to officers [sic], those decisions may be subject to judicial review by anyone aggrieved by the decision. This may lead to the quashing of the decision.”

- 7.5 The statutory guidance which accompanies the Regulations makes clear that it is for the Council to determine which, if any, Schedule 2 or own interest applications should be considered for referral, so it may determine whether certain categories of Schedule 2 or own-interest applications need to go through the referral triage process or which may be determined either by officers or by the committee. Where a planning matter is not referred to in Schedule 1 or 2 then the existing arrangements for the Council will remain in place in so far as possible.

8. Human Resources Advice and Implications

- 8.1 There are no Human Resources implications directly arising from this report.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 There are no implications for children or young people or vulnerable adults directly arising from the report.

10. Equalities and Human Rights Advice and Implications

- 10.1 There are no equalities and human rights implications directly arising from this report.

11. Implications for CO₂ Emissions and Climate Change

- 11.1 There are no climate or carbon emissions implications directly arising from this report.

12. Implications for Partners

- 12.1 There are no implications for partner organisations directly arising from this report.

13. Risks and Mitigation

- 13.1 There are no risks arising directly from this report.

Accountable Officer

Phillip Horsfield, Service Director, Legal Services and Monitoring Officer

Approvals obtained on behalf of:

	Name	Date
Chief Executive	John Edwards	31/08/26
Executive Director of Corporate Services (S.151 Officer)	Rob Mahon	28/08/26
Service Director of Legal Services (Monitoring Officer)	Phillip Horsfield	01/09/26
The Executive Director with responsibility for this report	Judith Badger, Executive Director of Corporate Services	01/09/26
Consultation undertaken with the relevant Cabinet Member	Leader of the Council - Councillor Read	28/08/26

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